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Summary record of the joint meeting of the Human Rights Committee and the Committee on Economic, Social and Cultural Rights

Held at the Palais Wilson, Geneva, on Monday, 12 March 2018, at 10 a.m.

Co-Chairs: Mr. Iwasawa (Chair, Human Rights Committee)
Ms. Bras Gomes (Chair, Committee on Economic, Social and Cultural Rights)

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Joint meeting of the Human Rights Committee and the Committee on Economic, Social and Cultural Rights on the occasion of the seventieth anniversary of the Universal Declaration of Human Rights

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The meeting was called to order at 10.05 a.m.

Joint meeting of the Human Rights Committee and the Committee on Economic, Social and Cultural Rights on the occasion of the seventieth anniversary of the Universal Declaration of Human Rights

1. **Ms. Bras Gomes** (Chair of the Committee on Economic, Social and Cultural Rights) said that the statement "all human beings are born free and equal in dignity" reflected the vision of a world in which everyone could live free from fear and want. That aspiration, which was manifest in the universality, indivisibility and interdependence of all civil, cultural, economic, social and political rights, had acquired a renewed sense of urgency on the seventieth anniversary of the Universal Declaration of Human Rights. The world was undoubtedly more willing to uphold rights than when the Universal Declaration had been adopted, thanks to the unflagging commitment of individuals and organizations that stood up for rights in their communities and beyond. However, material and other forms of deprivation persisted amid the affluence of the twenty-first century. Inequalities within and between countries continued to grow, and the benefits of development were not equitably shared. Conflicts destroyed lives and undermined hope for a better world. Climate change had a particularly adverse impact on the most vulnerable groups, such as migrants and refugees. Men and women seeking a safe haven and better opportunities for their children were faced with closing borders. The principles, values and aspirations of the Universal Declaration of Human Rights, which had been further materialized in the rights enshrined in the two Covenants and the other core human rights treaties, should guide States parties in upholding human dignity.

2. The United Nations High Commissioner for Human Rights had been unable to attend the meeting in person because he had commitments abroad. However, he had sent a recorded video message.

3. **Mr. Al Hussein** (United Nations High Commissioner for Human Rights), in the video message, said that the universality of human rights bound humanity together, despite differences, in the conviction that all human life was valuable and that all persons were equal in rights and dignity. It was that universality which had given the Universal Declaration of Human Rights such deep resonance since 1948. No other document in history had been translated into so many languages, bringing hope to people all over the world and was the closest example of a global constitution for mankind.

4. The Vienna Declaration and Programme of Action had taken the fundamental notion of universality a step further by acknowledging that all human rights were indivisible, interdependent and interrelated. The division into two Covenants had been a response to political pressure during the cold war and did not correspond to any sound logic. Civil and political rights, economic, social and cultural rights, and the right to development built upon each other and advanced together. Even if people's right to speak out and protest was recognized, they were not truly free if they were constrained by lack of education or inadequate living conditions. Moreover, wealthy people were not living well if they lived in fear of arbitrary detention by their government. The joint celebration by the two Committees of that unity of vision sent a strong message of their shared determination to uphold the Universal Declaration of Human Rights.

5. **Ms. Gilmore** (United Nations Deputy High Commissioner for Human Rights) said that the current meeting was historic in factual and symbolic terms. The two Committees were tasked with monitoring the implementation of two Covenants that established the mutuality of a panoply of rights. Seven decades after its adoption, the Universal Declaration continued to issue a clarion call for all persons to be recognized as equal in dignity and rights. If such rights were guaranteed comprehensively and universally, the outcome would be utter freedom from fear and want.

6. The Declaration had been drafted by people from cultures and traditions around the world. It embodied rights found in all major legal and religious traditions, such as African traditions of interdependence and collective responsibility, and reflected Qur'anic references to the universal dignity of humankind and to justice and responsibility for future generations.

7. The Declaration had risen as a phoenix from the ruins of cruel assaults and suffering inflicted by human beings on each other. Remarkable leaders had ensured that the text would stand the test of time. The Chinese diplomat Chang Peng-chun had advocated for the inclusion of values from both eastern and western cultures. Hansa Mehta of India had influenced the wording of article 1, which stated that all human beings were equal in dignity and rights, by arguing against the use of the word "men", which would imply that women were excluded. Begum Ikramullah of Pakistan had opposed Member States that had claimed that the Declaration was based on western standards, by defending the universality of the principle of equality in marriage; she had also spoken out strongly against child marriage. Charles Malik of Lebanon had helped to shape the Declaration's ethical basis. Latin American States had advocated for international application of rights and specifically for social and economic rights, with the strong backing of Saudi Arabia. The Soviet Union had advocated for racial equality. Hernán Santa Cruz of Chile had described the result as a consensus about the supreme value of the human person, a value originating not in the decision of a worldly power, but in the fact of existing. She wondered whether such a document could be drafted by Member States today.

8. Many countries had rightly viewed the human rights principles enshrined in the Declaration as powerful support for the liberation movements that were fighting to end colonialist exploitation throughout the world. Human rights were not an instrument for domination by any power. On the contrary, they served to uphold the freedom of people everywhere. Human rights empowered people to demand governments that served them rather than dominating them, economic systems that enabled them to live in dignity instead of exploiting them, and decision-making systems that were participatory rather than exclusionary.

9. The two iconic Committees had helped States to formulate national constitutions and legislation, to abolish the death penalty and to outlaw austerity measures. Their work had led to the development of the nine core international human rights treaties. They had tackled challenges that required universal solutions rooted in the indivisibility of rights. They had addressed the rights of migrants, the right to privacy in the digital age, the human rights ramifications of environmental degradation and climate change, and human rights in the context of the Sustainable Development Goals. They had also provided Member States with the tools necessary to uphold their peoples' human rights.

10. The milestones of 2017 included: the irreversible advance of women's suffrage and the birth of Mandela 100 years previously; the assassination of Martin Luther King 50 years previously; the adoption of the Vienna Declaration and Programme of Action and the establishment of the Office of the United Nations High Commissioner for Human Rights (OHCHR) 25 years previously; and the adoption of the Rome Statute of the International Criminal Court and the Declaration on Human Rights Defenders 20 years previously.

11. A great deal had been achieved but much remained to be done. It was not a time for optimism or hope so much as a time for courage. It was essential to stand up for universal, indivisible, interdependent and inalienable human rights for the sake of all.

12. **Mr. Abdel-Moneim** (Committee on Economic, Social and Cultural Rights) said that the two Covenants represented one bird and the two Committees were the wings that enabled the bird to fly. All governmental and civil society human rights bodies were comparable to birds and also needed wings to fly. It was wrong to cut those wings in the name of so-called reform.

13. **Ms. Jelić** (Human Rights Committee) said that, despite many challenges, the Universal Declaration remained crucial not only for the universal human rights protection system but also for regional systems. It was a cornerstone of all legal human rights instruments and provided fundamental support for all individuals, who shared the inherent value of human dignity. The Declaration was a highly accountable legal source and had been accorded legal authority by the two international Covenants.

14. The Universal Declaration had also been recognized as an inspiration and legal basis in the preamble to the European Convention for the Protection of Human Rights and Fundamental Freedoms. It was of special significance for countries in transition, for which realization of the rule of law, democracy and human rights standards presented a challenge.

For instance, it was treated in her own country, Montenegro, as valid positive law in addition to the Covenants, which were directly applicable. Eleanor Roosevelt, who had submitted the Universal Declaration to the General Assembly, had underscored the importance of readiness for the fight for human rights, which called for assertiveness and responsibility.

15. **Ms. Shin** (Committee on Economic, Social and Cultural Rights) said that the Universal Declaration was an amazingly progressive and forward-looking document. She wished to pay special tribute to the countless human rights defenders around the world, both individuals and NGOs, who had promoted human rights through their arduous and lengthy struggle, protecting voiceless people against threats and intimidation. In March 2017 the Committee on Economic, Social and Cultural Rights had issued a statement entitled "Human Rights Defenders and Economic, Social and Cultural Rights", in which it had recognized the invaluable contribution of civil society, NGOs and human rights defenders to the realization of human rights. As the first treaty body to provide NGOs with the opportunity to present written and oral statements on States parties under review, that Committee greatly appreciated the role of human rights defenders. The statement reminded States parties of their responsibility to ensure that human rights defenders were effectively protected against all forms of abuse, violence and reprisals while carrying out their work. Given the recent surge in restrictions on their activities, States should take concrete action to provide human rights defenders with an enabling environment and adopt relevant laws and policies so that they could continue their valuable work to protect and promote human rights in accordance with the Universal Declaration of Human Rights.

16. **Mr. Shany** (Human Rights Committee) said that the Universal Declaration, which at the time had been aspirational in nature, aiming to introduce a common standard of achievement and to inform the contents of the programmatic provisions of the Charter of the United Nations, had succeeded in giving the international human rights movement a sense of direction, and a grand vision that anticipated many of the subsequent developments, including the adoption of the two Covenants in 1966, which built upon the Declaration, further elaborated its provisions and established the two monitoring bodies. The Declaration and the ideals it stood for, in particular the inherent dignity and the equal and inalienable rights of all members of the human family, also served as the basis for the seven other core United Nations treaties, and the development of the Charter-based bodies and regional human rights instruments and mechanisms.

17. One of the most important aspects of the Declaration had been the combined proclamation in one instrument of civil and political rights and economic, social and cultural rights. Despite the rhetoric of indivisibility, the two groups of rights had been divided into two treaties with two separate monitoring mechanisms. The 2020 review of the implementation of General Assembly resolution 68/268 concerning the strengthening of the treaty body system would provide a unique opportunity to reflect on whether it was time to return to the ethos of 1948 and to introduce a coordinated Covenant review process, which might, for instance, facilitate a two-Committee review of the entire human rights record of the States parties to the Covenants on the basis of a consolidated list of issues. Such an approach would underscore the indivisibility of human rights and create a stronger and more prominent review process. If successful, it could be the first step towards the eventual consolidation of the two treaty bodies, whose approach to promoting human rights had become closer over time. The Committee on Economic, Social and Cultural Rights had overcome the issue of justiciability and was beginning to review individual communications, and the Human Rights Committee was developing additional jurisprudence based on duties to protect and fulfil, dealing progressively with background conditions for full implementation of human rights.

18. However, the Committees' ability to fully realize the promise of the Universal Declaration and to effectively fulfil their roles under the Covenants depended on their ability to maintain the support of constituencies, first and foremost the individuals whose rights they defended, but also States, the United Nations and OHCHR, which provided invaluable material and logistical support. The current situation was still precarious. Despite the huge progress in acceptance of human rights, and in the development of sophisticated legal doctrines and mechanisms of protection, United Nations Member States

were still content to leave the treaty bodies with limited legal powers. Moreover, they failed to provide them with the resources they required to fulfil their mandate, a situation that reflected not only monetary belt-tightening but also skewed priorities. As long as that unhappy state of affairs continued, the full potential of the two treaty bodies would remain underrealized, despite the dedication of the excellent professional support staff. In addition, the Universal Declaration's goal of attaining universal respect for and observance of human rights and fundamental freedoms would sadly remain beyond the treaty bodies' reach.

19. **Mr. Kedzia** (Committee on Economic, Social and Cultural Rights) said that the impact of a commemoration, such as that of the Universal Declaration, was measured not only in terms of its contribution to memory but perhaps primarily in terms of its contribution to the future. The former Secretary-General Kofi Annan, addressing a meeting of the Commission on Human Rights in 1998 to mark the fiftieth anniversary of the Declaration, had stated that, in light of the experience of the international community during the past 50 years, the guiding idea for the forthcoming decades should be prevention.

20. He highlighted the importance of the joint meetings held during the past 18 months of the Committees that served as guardians of the two Covenants. They were a symbol of the universality and indivisibility of human rights. Treaty body strengthening in line with General Assembly resolution 68/268 remained crucial. However, action should also be taken to ensure the sustainability of both international human rights treaties and the treaty body system. The Committees could contribute enormously to that discussion.

21. One of the main tasks of the United Nations system as a whole was to promote follow-up to the treaty bodies' conclusions, recommendations and views. The system must be encouraged to engage in every conceivable manner in the follow-up procedure. In his view, the strongest link between the two Committees was a growing awareness of the adverse impact of corruption on human rights and the need to develop effective means of combating such corruption.

22. **Ms. Waterwal** (Human Rights Committee) said that the treaty bodies had a collective responsibility not only to monitor the rights enshrined in the two Covenants but also to raise peoples' awareness of their rights. One important procedure supported by the Centre for Civil and Political Rights was follow-up to concluding observations. States parties were required, within one year of an interactive dialogue with a treaty body, to report on the implementation of three or four urgent recommendations. Committee members, acting in their own capacity, visited States parties, where officials and NGOs were informed about recommendations and the need to raise awareness of human rights in general. They gave interviews, lectured at universities and shared information during workshops with NGOs. She wished to know whether the Centre for Civil and Political Rights had undertaken research on the added value of the informal procedure and, if so, what conclusions it had reached. She hoped that the Centre would continue to support the work of the Human Rights Committee. The current historic meeting afforded the two Committees an opportunity to pledge their continued commitment to enabling people to enjoy their human rights and fundamental freedoms throughout the world.

23. **Ms. Gilmore** (Deputy High Commissioner for Human Rights) welcomed the Committees' vision of an integrated structure that could promote, symbolically and materially, the mutuality of the two core human rights treaties.

24. The goal of strengthening rather than eroding the Committees in the years ahead presented a major challenge. Lack of financial resources restricted their potential and was a source of grave frustration, both for the treaty bodies and for OHCHR. There was a pernicious and intentional effort under way in the United Nations system to counter the authority of the treaty bodies and to minimize the scope of their responsibilities. The source of that political agenda should not be underestimated. She urged the Committees to join OHCHR in a concerted effort to challenge the conflicts of interest of the General Assembly. They should oppose the convenient narrative that the requirements and demands of the treaty bodies had been invented by OHCHR.

25. She reiterated that the time had come to take firm and determined action. It was essential to address the unhealthy concentration of power, to deal with the treaty bodies' inadequacies in the context of that inequality, and to compensate for missed opportunities

to uphold rights. It was time to support the land rights of indigenous people, to defy State authorities that sought to silence journalists, to stress that reproductive health and rights were integral to the dignity of women and girls, and to involve young people in decision-making.

26. The purpose of celebrating seven decades since the adoption of the Universal Declaration was to ensure further progress in the next seven decades. She commended the Committees' partnership with OHCHR staff and looked forward to continuous courageous cooperation in defence of human rights.

27. **Mr. Iwasawa** (Chair, Human Rights Committee) expressed the hope that the current meeting marked the beginning of an overarching effort by the two Committees to work together seamlessly and vigorously in support of the Universal Declaration. They must speak out for the rights of others and their voices would be louder if they spoke together.

The meeting rose at 10.50 a.m.

The second part of the meeting was called to order at 11.10 a.m.

Adoption of the agenda

1. *The agenda was adopted.*

Organizational and other matters, including the adoption of the report of the Working Group on Communications

2. **Ms. Cleveland** said that the Working Group had met from 5 to 9 March 2018 and had considered 35 communications. Of those, the Working Group recommended finding a violation of the Covenant in 22 cases and a non-violation in 3 cases. The remaining communications should be declared inadmissible. She wished to express her gratitude for the support provided by the Petitions Unit of the Office of the United Nations High Commissioner for Human Rights in spite of personnel and resource constraints.

3. *The report of the Working Group on Communications was adopted.*

The discussion covered in the summary record ended at 11.15 a.m.

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122nd session

Summary record of the 3454th meeting
Held at the Palais Wilson, Geneva, on Monday, 12 March 2018, at 3 p.m.

Chair: Mr. Iwasawa

Contents

Consideration of reports submitted by States parties under article 40 of the Covenant

Fourth periodic report of Guatemala

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The meeting was called to order at 3.05 p.m.

Consideration of reports submitted by States parties under article 40 of the Covenant

Fourth periodic report of Guatemala (CCPR/C/GTM/4; CCPR/C/GTM/QPR/4)

1. *At the invitation of the Chair, the delegation of Guatemala took places at the Committee table.*

2. **Mr. Borrayo Reyes** (Guatemala), introducing the fourth periodic report of Guatemala (CCPR/C/GTM/4), said that, since submission of the report, the State party had adopted the Act on the Genetic Databank for Forensic Purposes, the Act on School Meals and the Migration Code, and it had amended the Civil Code to prohibit persons under the age of 18 from marrying.

3. Policies in areas such as the protection of children and adolescents, decent work and agriculture had been adopted. Policies to support victims of violence or discrimination on grounds of sexual orientation or sexual identity had been introduced in relevant agencies such as the Registry Office, the National Institute of Forensic Sciences, the Public Criminal Defence Institute and the prison system. Between 2016 and 2018 the Public Prosecution Service had received 538 complaints and obtained 7 convictions. In the 2015 general elections 54 per cent of registered voters had been women.

4. The Inter-Agency Coordinating Unit for Indigenous Peoples had been created and, in the context of the International Decade for People of African Descent, the Inter-Agency Working Group on People of African Descent had been set up. In addition, the Guatemalan Indigenous Fund had been extended for 20 years.

5. In the area of labour, judicial proceedings were under way in 223 of the 417 complaints of discrimination brought between 2015 and 2018, while the Inspectorate General for Labour had recovered over 1.5 billion quetzales on workers' behalf in the wake of over 70,000 inspections. There were currently 790,000 children and adolescents engaged in child labour, a drop from the previous figure of 850,000.

6. In order to combat violence against women the Public Criminal Defence Institute had set up a new central office to assist victims, with 15 branches around the country, while the Public Prosecution Service had opened offices in the country's main hospitals to deal with victims of sexual violence. A new national strategy on the prevention of violence and crime was in place. The Supreme Court had recently created a second Division of Femicide Appeals, and special courts to try cases of femicide and other forms of violence against women were shortly to open in two departments.

7. Nearly 120,000 complaints of violence against women had been received since 2016 and 3,621 convictions had been obtained in the 4,707 cases opened. Psychological treatment and financial compensation were provided to survivors in the event of a conviction. The National Coordination Agency for the Prevention of Domestic Violence and Violence against Women had been reactivated. An allocation of 20.5 million quetzales had been made to strengthen the Comprehensive Support Centres for Women Survivors of Violence, which had attended over 14,000 women and children in 2017. A special prosecutor's office for femicide had been created in accordance with the Act on Femicide and Other Forms of Violence against Women and in compliance with the Inter-American Court of Human Rights judgment in the *Veliz Franco* case. The special prosecutor had obtained 32 convictions.

8. Torture had now been duly defined in the Criminal Code in line with the provisions of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment and of the Inter-American Convention to Prevent and Punish Torture, and the Public Prosecution Service had received 10 complaints of torture between 2015 and 2017.

9. Measures to combat impunity included the 2016–2018 National Plan for Open Government, which had facilitated access to public information. The Public Prosecution Service had received nearly 18,000 complaints of corruption between 2015 and 2018 and obtained 375 convictions. The Ríos Montt proceedings and other amnesty cases were still ongoing in the courts.

10. Bill No. 3590 to establish a commission to search for disappeared persons was still before Congress. Meanwhile, searches were being conducted by other agencies. With the help of the International Committee of the Red Cross (ICRC), the National Institute for Forensic Sciences had produced a manual on best practices in forensic identification.

11. The State of Guatemala acknowledged that its Constitution was in need of reform in order to bring it into line with regional and international human rights standards. Between 2016 and 2018, the Constitutional Court had heard over 5,000 applications for *amparo*, some 1,500 of which had been fully granted and 70 in part.

12. Under the National Reparations Programme, more than 300 exhumations had been carried out between 2015 and 2018, and over 2,000 persons had received psychological support. As to reparations for victims of the internal armed conflict, the Presidential Commission for Coordinating Executive Policy in the Field of Human Rights (Presidential Human Rights Commission) had created a verification and monitoring board and an office to implement the policy on reparations for those affected by the Chixoy dam. Ninety per cent of the families entitled to reparation had received compensation, and the remaining 10 per cent would be dealt with in the coming months.

13. The Army had been relieved of civilian security duties and assigned instead to border patrols. A plan to strengthen the National Civil Police was under way, with nearly 3,000 new recruits graduating in 2017. Despite not having ratified the Second Optional Protocol to the Covenant, aiming at the abolition of the death penalty, Guatemala had taken steps to safeguard the life of all persons. A bill to abolish the death penalty was currently before Congress. The Public Criminal Defence Institute had obtained the commutation of 66 death sentences, 2 of which had been brought before the Inter-American Court of Human Rights. The Constitutional Court had upheld a constitutional challenge to the imposition of the death penalty in the Criminal Code and the Drugs Trafficking Act.

14. The homicide and crime rates continued to decline. Over 90 extortion rings had been dismantled and a record amount of cocaine (13.7 tonnes) had been seized. In February 2018 prison overcrowding levels stood at 245 per cent. A new prison administration system was being implemented, which included rehabilitation and reintegration programmes and measures to improve prisoners' access to health care, and 159 new prison officers had graduated in 2017. Congress was considering a bill to amend article 268 of the Code of Criminal Procedure, which dealt with the grounds for terminating imprisonment. The Telematics Surveillance Act, providing for alternatives to custodial sentences, was awaiting implementation.

15. The appointment of justices to the Supreme Court and appeals courts, as well as the appointment of other judicial officials, was made in complete independence by the nominating commissions established under the Constitution. Special protection had been provided to 32 judges and 10 members of the Public Prosecution Service by the Protection of Persons and Security Division of the National Civil Police. The national commission set up to support the judiciary's programme to prevent mob justice continued to organize training and awareness-raising activities.

16. Turning to the protection of human rights defenders, he said that the Unit for the Analysis of Attacks on Human Rights Defenders remained active; in addition, the Special Rapporteur on the situation of human rights defenders, during a visit to Guatemala, had helped in the formulation of policy in that regard. The Public Prosecution Service had received over 800 complaints of offences against journalists and human rights activists between 2015 and 2018. In application of the recommendations of the Human Rights Council following the third cycle of the universal periodic review, Guatemala continued to strengthen its protection mechanisms. The State itself did not criminalize the activities of human rights defenders or other militants: social protest was not an offence under the Criminal Code. In the field of labour, 13 killings of trade unionists had been referred to the International Labour Organization (ILO) between 2014 and 2017.

17. As to the protection of adolescents in conflict with the law, he said that the Social Welfare Secretariat planned to set up a reintegration centre and halfway house, partly as a means of ensuring the separation of young offenders from adults. Multidisciplinary teams had been recruited for the juvenile detention centres and vocational training programmes

were under way. The Public Criminal Defence Institute currently employed 33 defenders nationwide, 1 in each court for adolescents in conflict with the law and 11 in Guatemala City.

18. Following dialogues held at the local and regional levels, guidelines had been published on procedures for consulting with indigenous peoples in accordance with ILO Indigenous and Tribal Peoples Convention, 1989 (No. 1), and a bill to regulate such consultations had been drafted. The judiciary's Indigenous Affairs Unit had been upgraded to Secretariat rank.

19. The Head of State had extended the mandate of the International Commission against Impunity in Guatemala for a further two years in order to continue with its investigations of parallel or clandestine security organizations. In the area of mental health, in light of the precautionary measures ordered by the Inter-American Commission on Human Rights, steps had been taken to improve conditions for patients at the Federico Mora mental health hospital. Legal action had been taken against several members of the hospital's staff. Psychiatric services were being provided across the country and a psychiatric clinic for children and adolescents had been created.

20. Departmental networks to combat sexual violence and exploitation and human trafficking had been put in place, along with child protection mechanisms and a child pornography unit. Over 1,700 complaints of trafficking in persons or of profiting from trafficking in persons had been received between 2012 and mid-2017, while the courts had handed down 168 sentences for such offences. A bill to include sexting and grooming in the Act on Sexual Violence, Exploitation and Trafficking in Persons was before Congress.

21. Although the Constitution recognized the right to life from the moment of conception, a protocol was in place permitting therapeutic abortion in order to safeguard the mother's life or health, and the national health system was required to treat women on request in certain cases.

22. **Mr. Santos Pais** asked which body would be responsible for implementing the Committee's recommendations. He said that he would like to know whether civil society had been involved in the preparation of the report and whether it would be asked to help in following up on the Committee's recommendations. To date no Guatemalan citizen had brought a complaint before the Committee, or indeed before any other United Nations human rights treaty body. Given that the State party appeared to be finding it difficult to implement the sentences of the Inter-American Court of Human Rights, he wondered what action it would take on the Views issued by the Committee were such a complaint to be made. He would like to know whether the national courts had handed down any judgments applying the provisions of the Covenant.

23. He noted that the Human Rights Advocate had always enjoyed complete independence, to the extent that the new incumbent had felt able to apply to the Inter-American Commission on Human Rights for precautionary measures, which had been granted. He would like to know whether the State party intended to continue to support that independence of action. The Advocate's budget, which was set by Congress, had not changed for five years and did not appear to be adequate for an office that operated throughout the country. Moreover, delays in disbursement had hampered the payment of salaries and the Committee understood that Congress had even attempted to withhold payment of the budget for 2018. He wondered whether the delegation considered the budget of the Human Rights Advocate to be adequate. Were there any plans to increase it or to look into other modalities such as a multi-year budget?

24. With regard to equality among men, women and indigenous women, he would appreciate information on women's participation in public and political life. For example, he wondered what proportion of judges and prosecutors were women and what roles they held. He also wondered what proportion of members of the Guatemalan Congress came from indigenous communities and how many of those members were indigenous women. He would appreciate the delegation's view on whether the Elections and Political Parties Act could be improved through the reintroduction of quotas for the participation of women and indigenous persons and he would welcome information on the State party's objectives in that regard.

25. Women faced labour inequality in a number of sectors in Guatemala. That inequality took various forms, such as wage discrimination, unpaid work and a lower employment rate. With that in mind, he would appreciate further information on measures taken by the State party to monitor and finance the implementation of the National Policy on Promotion and Comprehensive Development of Women and the Equal Opportunities Plan 2008–2023, as well as information on their allocated budgets. Furthermore, he wished to know what steps the State party planned to take to increase the involvement of the Presidential Secretariat for Women and the Office for the Defence of Indigenous Women in the National Policy and Equal Opportunities Plan. In addition, he would welcome information on any measures planned by the State party to ensure that women were paid the legal wage and were not subject to wage discrimination. Lastly, he wished to know what steps the State party had taken to put an end to the use of stereotypes and discrimination against indigenous peoples and persons of African descent, what measures it had adopted to protect indigenous women and what results had been achieved by those measures.

26. Turning to the issue of violence against women, he wished to know what steps the State party planned to take to address widespread violence against women, including domestic violence and femicide, and to ensure that all cases of such violence were investigated, prosecuted and led to convictions so as to put an end to the high level of impunity enjoyed by their perpetrators. He wondered whether the State party planned to establish courts and tribunals specializing in femicide and other forms of violence against women in rural areas in collaboration with indigenous peoples. Furthermore, he wished to know what steps the State party planned to take to strengthen the National Coordination Body for the Prevention of Domestic Violence and Violence against Women and to renew the National Plan for the Prevention and Eradication of Domestic Violence and Violence against Women, which had come to an end in 2014. Lastly, he wished to know whether the State party planned to take measures to ensure adequate and timely funding for Comprehensive Care Centres for Women Survivors of Violence and whether it planned to open new Comprehensive Care Centres to extend coverage throughout Guatemala.

27. **Ms. Cleveland** said that her first set of questions pertained to issue 4 of the list of issues prior to reporting (CCPR/C/GTM/QPR/4). She wished to know whether the State party planned to adopt legislation explicitly prohibiting discrimination on the basis of sexual orientation and gender identity, including in the areas of employment, health care, education, housing and access to public services, and legislation criminalizing hate crimes perpetrated on grounds of sexual orientation and gender identity. Furthermore, she was interested to know whether the State party planned to adopt legislation to protect the right to legal recognition of gender identity for transgender persons by allowing them to change their gender designation on official identity documents. The Committee had received reports of a pending bill, that explicitly proposed to prohibit same-sex marriage and civil partnership, certain versions of which implicitly condoned incitement to hatred on the basis of sexual orientation and gender identity. She would appreciate information on the bill's current status and an explanation as to how it was consistent with the principle of non-discrimination on grounds of sexual orientation and gender identity.

28. She appreciated the delegation's update on the number of registered complaints of violence against lesbian, gay, bisexual, transgender and intersex persons and would be grateful for further information on the seven complaints for which prosecution had been completed, particularly regarding whether convictions had been secured. If so, she wished to know what sentences had been imposed and what remedies had been provided to the victims. Moreover, she wished to know how many more cases had led to investigations and prosecutions and whether the State party had taken measures to make sure that members of the lesbian, gay, bisexual, transgender and intersex community felt that it was safe to make complaints.

29. The Committee had received worrying information regarding violence against transgender women in the State party, including reports that 40 transgender women had been murdered in 2016. She wished to know what measures the State party took to promptly and effectively investigate such incidents of violence, to prosecute and punish their perpetrators and, more generally, to protect transgender women from violence. In a report published in 2017, the Inter-American Commission on Human Rights had concluded

that the murder of lesbian, gay, bisexual, transgender and intersex persons was not properly documented as such by the police in Guatemala and had recommended that the State party should develop guidelines or protocols to assist police officers and investigators in determining whether a crime was committed on the basis of prejudice against the victim's actual or perceived gender identity or expression. She wondered what measures the State party planned to take to implement that recommendation. Furthermore, she wished to reiterate a request for information on court decisions regarding lesbian, gay, bisexual, transgender and intersex persons and their rights. With respect to prisoners, the State party had indicated in its report that it had received no complaints of discrimination or violence against lesbian, gay, bisexual and transgender persons in its prison population. She wondered whether the Committee could explain the measures it had put in place to protect such persons in prisons and to ensure the presence of effective complaints mechanisms.

30. Her next set of questions concerned issue 6 of the list of issues prior to reporting. In its previous list of issues prior to reporting (CCPR/C/GTM/QPR/3), the Committee had requested information on the protection afforded to workers in the agricultural, domestic labour and maquila industries, which mostly employed women and indigenous workers. She appreciated the information provided regarding the increased activity of the Inspectorate-General of Labour, but would welcome confirmation of reports that its budget had been cut by 7 per cent from 2014 to 2016. In view of amendments to the Labour Code allowing the Inspectorate-General of Labour to issue sanctions, she wondered how many inspections had been carried out in the agricultural and maquila industries and how many and what kind of sanctions had been imposed. She also wished to know whether inspections were carried out in the domestic labour industry. Furthermore, she would be grateful for further information on the State party's elaboration of a protocol for inspection in the maquila industry; how the special regime and legal framework for the protection of domestic workers differed from that of other workers; and whether the State party planned to provide equal labour protection across the three sectors concerned. Lastly, she was interested to know the status of bill 4963, which sought to improve, regulate and alleviate discrimination against domestic workers.

31. With regard to issue 9 of the list of issues prior to reporting, she wished to know in what circumstances therapeutic abortion was allowed on medical grounds and how many such abortions had been allowed under the State party's therapeutic abortion protocol. In November 2017, the Committee on the Elimination of Discrimination against Women had called on the State party to reduce the risk of harm to women resulting from unsafe abortions; to legalize abortion in cases of threat to the health of the woman, rape, incest, or severe fetal impairment; to decriminalize abortion in all other cases; and to increase access to therapeutic abortion. She wished to know what steps the State party planned to take to implement those recommendations. Furthermore, she would welcome information on the main causes of maternal mortality in the State party, including what proportion of the maternal mortality rate was attributable to unsafe abortions. Lastly, she wished to know how effective the State party's efforts to reduce teenage pregnancy had been and what plans it had to implement the biministerial agreement "Prevent with Education" to institutionalize comprehensive sexual education and reduce the number of adolescents, indigenous women and girls, as well as women in rural areas, deprived of access to sexual and reproductive health services and contraception.

32. Turning to issue 10 of the list of issues prior to reporting, she was concerned about reports of extended delays in many of the judicial proceedings of perpetrators of past human rights violations, including the trial of Efraín Ríos Montt. Reportedly, domestic prosecutors had secured convictions in only four of the 14 judgments passed by the Inter-American Court of Human Rights and only in cases involving low-level or mid-level military officials. Numerous reports received by the Committee had indicated that there were significant legal obstacles to combating impunity, such as the misuse and abuse of legal claims such as *amparo* and recusal petitions, harassment of victims, witnesses and judges and requests for amnesty. She understood that in the *Dos Erres* and *Ixil* genocide cases, 42 and 37 requests for injunctions had been filed, respectively. Furthermore, the State party's proposal to reform the Amparo Act had been repeatedly delayed. She would therefore appreciate further information on the status of that reform and the envisaged timeline for its passage. Furthermore, she wished to know how the State party planned to

overcome other barriers to accountability. For example, she wondered how the Public Prosecution Service addressed frivolous litigation against those involved with transitional justice cases and what protective measures were taken to prevent the harassment of victims and judges. She wished to know whether the *Molina Theissen* case had begun on 1 March 2018, as scheduled.

33. More generally, she was interested to know what measures the State party had taken to ensure compliance with the judgments of the Inter-American Court of Human Rights relating to accountability for past human rights violations. The Committee had received reports that a bill had been submitted to the Guatemalan Congress in March 2018 proposing a general amnesty for all crimes committed by State authorities during the internal armed conflict, which would include the liberation of all officials previously prosecuted or currently on trial for crimes against humanity and other serious human rights violations. She wished to know whether those reports were correct. If so, she wondered how such a bill was consistent with the State party's obligations under the Covenant. With regard to the estimated 45,000 enforced disappearances that had taken place during the internal armed conflict, she wished to know what steps the State party had taken to establish a national search commission for disappeared persons and a single, centralized register of disappeared persons. Lastly, she wished to know whether the State party had a procedure in place to allow survivors of enforced disappearance to claim a declaration of absence and whether it planned to ratify the Convention on Enforced Disappearance, which it had signed in 2007, and accept the competence of the Committee on Enforced Disappearances.

34. **Ms. Brands Kehris**, speaking in relation to issue 11 of the list of issues prior to reporting, said that the amount of money spent by the State party on its National Reparations Programme between 2012 and 2015 was significantly lower than the Programme's allocated budget for that same period. She was therefore interested to hear about any barriers to the implementation of the budget and wished to know why there had been such a large discrepancy. The Committee had received reports of continued delays in the processing of requests for compensation. She would therefore be grateful for further information on the status of collective compensation measures, including information on the time frame for the adoption of the regulatory framework mentioned in the delegation's opening remarks. Furthermore, she wished to know what measures had been taken since 2015 on such aspects of compensation as knowing the truth, justice for victims and ensuring non-repetition. The Committee had also received reports that changes had recently been made to the National Reparations Programme that had weakened the role of civil society and human rights organizations representing victims, among other things. With that in mind, she was interested to know what steps the State party had taken or planned to take to ensure the substantial improvement of the National Reparations Programme in the future. Lastly, she would appreciate an update on the allocated and effective budgets of the National Reparations Programme for 2016 and 2017, both overall and broken down by component, and an explanation as to why that budget had been sharply reduced. Lastly, she wished to know what the State party planned to do in 2018 to ensure compensation for victims of human rights violations and whether it had plans to improve the National Reparations Programme. If not, she wondered whether the delegation could describe the obstacles to the Programme's effective implementation and improvement.

35. **Mr. de Frouville** said that, as mentioned in the delegation's opening remarks, in 2012 the State party's Constitutional Court had declared that the definition of torture contained in the Criminal Code was unconstitutional by way of omission and that it would need to be amended to be brought in line with international instruments. He therefore wondered whether a bill had been submitted proposing such an amendment. The State party had indicated in its report that it had received 4 complaints of acts of torture between 2010 and 2015, but in its opening remarks, the delegation had indicated that only 10 complaints had been received between 2015 and 2017. He wondered whether that figure was correct. He would also appreciate clarification as to how only one of the four complaints of acts of torture registered between 2010 and 2005 had led to a conviction and whether that was a sign of widespread impunity. Furthermore, he would welcome information on any mechanisms in place to provide reparation for victims of acts of torture.

36. The Committee had received reports that the preventive mechanism established pursuant to the State party's ratification of the Optional Protocol to the Convention against Torture was not operational and that three of its five members had completed their mandates on 25 March 2017, but that their replacements were yet to be selected by the Congress. He therefore wished to know when those replacements would be selected. In addition, he wondered whether it was true that the Congress planned to amend its legislation on torture prevention to the effect that the number of members of the mechanism would be permanently reduced from five to three. If so, he wished to know the reasons for such an amendment, which would surely make it even more difficult for the as yet unsuccessful mechanism to do its job.

37. With regard to issue 13 of the list of issues prior to reporting, the State party had indicated in paragraph 128 of its report that it had increased the budget allocated to the National Civil Police between 2012 and 2015. He would, however, appreciate clarification of the figure mentioned in that paragraph, as its relation to the budget of the previous cycle was unclear. Furthermore, the State party had indicated that it had increased the number of police officers employed by the National Civil Police to around 39,000. However, in paragraph 130 of the State party's core document (HRI/CORE/GTM/2012), it was stated that the Ministry of Interior had estimated that at least 60,000 police officers would be required to meet the country's security needs. He therefore wondered whether 39,000 police officers could be considered to be enough and whether the State party planned to continue to recruit more police officers with a view to reaching the desired figure of 60,000.

38. He would appreciate clarification regarding the procedure by which complaints made against officers of the National Civil Police were handled, as it seemed that, in at least some cases, officers found guilty of acts of torture received only administrative penalties. In that connection, he wished to know how it was decided that criminal proceedings should be instituted in response to a particular complaint and what kind of protection was provided for victims. The Committee was concerned that disciplinary penalties could be imposed in cases of ill-treatment and that, in cases in which serious injury had been inflicted, the conviction rate was extremely low.

39. With regard to the long-standing plan to end the involvement of the armed forces in public security activities, he wondered how the members of the armed forces currently involved in such activities would be redeployed. Lastly, it was unclear whether any of the soldiers who had fired on a group of indigenous demonstrators in Totonicapán in October 2012 had been prosecuted and what measures had been taken to prevent such incidents.

40. **Mr. Muhumuza** said that he would appreciate information on the political, economic and social participation of persons of African descent in Guatemala and on the efforts being made to promote their participation in those spheres.

The meeting was suspended at 4.30 p.m. and resumed at 4.55 p.m.

41. **Mr. Borrayo Reyes** (Guatemala) said that his Government fully recognized that the successful operation of national human rights institutions depended on respect for the principles relating to the status of national institutions for the promotion and protection of human rights (Paris Principles). In accordance with the Constitution, the Human Rights Advocate had a mandate from Congress to protect human rights. The Presidential Human Rights Commission implemented the relevant standards of the Inter-American human rights protection system with a view to protecting the Human Rights Prosecutor. The Commission's two functions were to coordinate human rights policy across the Government and to protect human rights defenders. On 14 March 2018, the Human Rights Prosecutor and the Presidential Human Rights Commission would both participate in an inter-agency meeting at which future strategies for coordination and policy implementation would be discussed.

42. With regard to training for judges, the Presidential Human Rights Commission coordinated with the judicial authorities to organize workshops and seminars on international human rights instruments, including the Covenant. Talks had been held with the President of the Supreme Court to consider further capacity-building initiatives for the judiciary with a focus on the rights of persons who had been forcibly evicted.

43. Following a process of consultation, the Presidential Human Rights Commission was working with international partners to introduce a system to monitor the implementation of recommendations made by international bodies. In January 2018, the United Nations Children's Fund had offered to assist the Government in making one set of such recommendations available in the principal Mayan languages. The Presidential Human Rights Commission had held inter-agency meetings to discuss the development of policy measures to protect the rights of lesbian, gay, bisexual, transgender and intersex persons.

44. **Ms. Teleguario Sincal** (Guatemala) said that the Ministry of Labour and Social Welfare had organized various initiatives to reduce the gender pay gap, including awareness-raising campaigns, advisory services and capacity-building exercises with a focus on the protection of labour rights. The Ministry had worked with the International Labour Organization (ILO) to launch and promote a campaign entitled "Yes to the ILO Domestic Workers Convention, 2011 (No. 189)". In 2015 and 2016, the General Labour Inspectorate had carried out 845 inspections and had reached over 100,000 workers in the process. Companies focused on the export market and maquila factories were also regularly inspected.

45. The Labour Code had been reformed under Congressional Decree 7-2017, which, inter alia, had granted the General Labour Inspectorate the power to impose penalties in order to deter non-compliance with labour legislation. Other measures had also been taken to strengthen the legislative protection of civil and political rights.

46. The Tripartite Commission on International Labour Matters had decided that domestic work should be regulated, as it was one of the worst forms of child labour. To give effect to that decision, the Government had submitted bill No. 4981 on the ratification of ILO Convention No. 189, which had been welcomed by the congressional committee on labour. It was awaiting final approval. In 2016, over 1,900 complaints involving a range of labour issues had been received from women working in private residences. In the agricultural sector, 213 women facing similar issues had been reached.

47. **Mr. Dávila Mejicanos** (Guatemala) said that, in recent years, women had represented an increasingly small proportion of murder victims. The specific needs of vulnerable groups, including lesbian, gay, bisexual, transgender and intersex persons, were taken into account in the organization of rehabilitation programmes for victims of crime. The rights of such groups were covered in the training courses organized for prison officers and administrative staff. In addition, the Ministry of the Interior had taken steps to raise awareness of the rights of lesbian, gay, bisexual, transgender and intersex persons among officers of the National Civil Police.

48. The budget allocated to the National Civil Police in 2018 was nearly 4 billion quetzales. There were plans to hire 3,000 officers in 2018 and an additional 3,000 in 2019, such that the total number of officers would amount to over 46,000 by the end of 2019. It was expected that the target of 60,000 officers would be reached within six years. The Office of the Inspector General of the National Civil Police investigated complaints made against officers of the National Civil Police. In addition to any applicable criminal penalties, administrative penalties could be imposed on officers against whom complaints were upheld. The administrative penalties included dismissal without pay.

49. The President had recently announced that the plan for the withdrawal of the armed forces from public security activities would become effective on 31 March 2018. Members of the armed forces who had previously been involved in such activities would be redeployed to border areas. Guatemala faced a range of threats of a transnational nature, including drug trafficking.

50. **Mr. García Morales** (Guatemala) said that the National Institute of Forensic Sciences collected disaggregated data on sexual abuse. Over the period 2015–2017, the number of reported cases of sexual abuse had remained relatively stable at approximately 7,000 for women and 800 for men. Measures had been taken to encourage victims of sexual abuse to come forward, in particular in the interior of the country. Inter-agency agreements had been concluded, including with the Ministry of Health, to ensure that cases of sexual abuse identified in clinical settings were reported to the appropriate authorities. The National Institute of Forensic Sciences had made efforts to remove some of the barriers that

caused victims to drop their claims. Those measures had caused the proportion of victims who did so to fall significantly between 2016 and late 2017.

51. It was difficult to estimate the number of women who died as a result of abortion each year. Nevertheless, efforts were being made to establish a system to identify likely cases with a view to producing more reliable estimates.

52. It should be borne in mind that only 3 of the 35 or so requests for injunctions registered in 2017 concerned serious historic human rights violations. The case of Mr. Ríos Montt was one of those cases.

53. **Ms. Véliz López** (Guatemala) said that women held 66 per cent of management positions in the Public Prosecution Service and 41 per cent of positions in the tax unit. Over the period 2014–2017, the number of women hired by the Public Prosecution Service had increased by 3 per cent.

54. In 2016, the Public Prosecution Service had launched a "panic-button" smartphone application for women, which had since been downloaded tens of thousands of times. The average age of users was 34 years. The application had recently been updated to include a "shake" function, which notified the appropriate authorities in the event that a smartphone to which the application had been downloaded was shaken continuously for a certain number of seconds. There was a telephone helpline for women who did not have access to a smartphone. Over 24,000 complaints and over 600 emergency calls had been received via the helpline.

55. The Office of the Prosecutor for Women's Affairs provided services for Mayan women and in the K'iche' and Kaqchikel languages. The trial in the *Molina Theissen* case had opened on 1 March 2018, and police protection had been provided for the family of the victims. With regard to offences against lesbian, gay, bisexual, transgender and intersex persons, 4 convictions had been handed down and 37 decisions for *criterio de oportunidad* (leniency for criminal informants) had been issued.

56. **Mr. Borrayo Reyes** (Guatemala) said that civil society participated in the development of proposals for policies regarding the activities of both the Presidential Human Rights Commission and the Government in general.

57. **Mr. Figueroa Álvarez** (Guatemala) said that according to official sources, the rate of maternal mortality had recently decreased, which was attributable to several factors, including measures pursuant to the Act on Midwives, the reinstating of the Committee on Maternal Mortality and the use of misoprostol to reduce post-partum haemorrhage. Prenatal and natal care in rural areas would be improved by a university midwifery programme currently being implemented.

58. Regulations governing the comprehensive and differentiated care of female adolescents had helped to lower the rate of pregnancy among girls under the age of 14 years; that rate, although still high, had recently fallen. A number of strategies were in place to prevent adolescent pregnancy, including the delivery of services at nearly 400 teen-friendly centres. Over 150 dedicated networks and more than 60 specialized schools provided education on responsible parenting.

59. **Mr. Borrayo Reyes** (Guatemala) said that the various State institutions, of which the Presidential Human Rights Commission, included female representation from the four major ethnic communities in the country, namely, the Ladino, Maya, Garifuna and Xinka.

60. **Mr. de Frouville** said that he would welcome additional information on the human rights abuses carried out by the police force; in particular, he would appreciate details on the number of complaints of such abuse, the number of investigations under way and the conviction rate. He would appreciate clarification on the process whereby members of the police force were prosecuted for acts of torture or ill-treatment. In addition, he wished to know whether the armed forces had been deployed to border areas in order to deal with illegal immigration and, if so, he would like to hear about the framework for the corresponding operations.

61. **Mr. Koita**, recalling the importance of the principles enshrined in instruments such as the International Convention on the Elimination of All Forms of Racial Discrimination

and noting that other countries in the region had adopted measures to eliminate the conditions which caused or perpetuated racial discrimination, asked whether the State party was contemplating the implementation of similar measures.

62. **Mr. Shany** said that in 2015, the Inter-American Commission on Human Rights had published a report which drew attention to the State party's lack of a framework within which to address the issues faced by Guatemalan returnees. It would be interesting to learn about the steps taken to follow up on the report.

63. **Mr. Santos Pais** said that he would welcome an account of how the establishment of various offices of special prosecutors and the training given to prosecutors, police officers and judges had helped to address the problems associated with the processing of complaints of sexual and domestic abuse. In addition, it would be useful to hear more about the system under which prosecutors dealt with cases of such abuse, including details on services provided in remote areas and information on common procedures.

64. **Ms. Cleveland** said that it would be interesting to hear the delegation's comments on reports which indicated that every year, an estimated 65,000 unsafe abortions took place in Guatemala and that unsafe abortions were a leading cause of maternal mortality in the country. She wished to know whether the State party kept data on the causes of maternal mortality and whether emergency contraception was generally available to the population.

65. **Mr. Borrayo Reyes** (Guatemala) said that several measures were in place to address the needs of the various cultural communities in his country, including people of African descent and indigenous peoples. However, budgetary limitations affected the significant efforts made to comply with the relevant international requirements. Nonetheless, through activities such as an upcoming festival celebrating human rights, Guatemala continued to promote awareness of the subject.

66. **Mr. Figueroa Álvarez** (Guatemala) said that the main cause of maternal death was post-partum haemorrhage, followed by the complications brought on by hypertension and those related to abortion. Abortion was illegal, except where justified by medical reasons. Most abortions were non-therapeutic and such abortions were a major cause of maternal death.

67. **Ms. Véliz López** (Guatemala) said that investigations into allegations of torture could be initiated either by the lodging of a complaint with the National Civil Police or by judicial notice. There was an official record of over 4,000 complaints filed against members of the National Civil Police force; the acts in question had constituted common offences lesser than the crime of torture. As a result of the complaints, 1,300 persons had been brought before the courts and 459 sentences had been handed down.

68. Nearly all departments had an office of the Special Prosecutor for Women, which addressed cases of sexual and domestic violence. Sexual offences were investigated by a dedicated unit which operated in Guatemala City and in the departments of Quetzaltenango and Alta Verapaz. Special protocols had been adopted for the treatment of victims of human trafficking and other offences. Coordination between the Public Prosecution Service and the judiciary sought to prevent the suspension of hearings related to cases of gender-based violence.

69. **Ms. Ochoa Escribá** (Guatemala) said that the ruling which had declared the definition of torture in the Criminal Code unconstitutional on grounds of omission was based on the need to reflect the provisions of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment and of the Inter-American Convention to Prevent and Punish Torture. The matter was currently before Congress.

70. **The Chair** reminded the delegation of the option to submit its responses in writing within 48 hours of its dialogue with the Committee.

The meeting rose at 6 p.m.

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Summary record of the 3455th meeting
Held at the Palais Wilson, Geneva, on Tuesday, 13 March 2018, at 10 a.m.

Chair: Mr. Iwasawa

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The meeting was called to order at 10.00 a.m.

Consideration of reports submitted by States parties under article 40 of the Covenant (*continued*)

Fourth periodic report of Guatemala (*continued*) (CCPR/C/GTM/4 and CCPR/C/GTM/QPR/4)

1. *At the invitation of the Chair, the delegation of Guatemala took places at the Committee table.*

2. **Mr. Borrayo Reyes** (Guatemala) said that the fact that his delegation included representatives from the highest levels of the executive, legislature and judiciary was an indication of the importance Guatemala attached to the International Covenant on Civil and Political Rights. Unfortunately, some elements of the Guatemalan media had chosen to focus only on the costs involved in sending such a delegation to Geneva rather than on the significance of its interaction with the Committee.

3. **Mr. Pineda Barales** (Guatemala) said that judges received training in the application of the international treaties to which Guatemala was a party, and sentences handed down by the courts were duly substantiated and motivated, in line with both domestic and international law. Guatemala had set up special courts and incorporated additional judges into existing courts in order to try cases of femicide and other forms of violence against women. In addition, there were five community courts, the members of which were elected by and representative of the indigenous communities they served.

4. General Efraín Ríos Montt was currently on trial for genocide, the first case of its kind to be held in Guatemala. With regard to the 45,000 persons who had disappeared during the internal armed conflict, although Guatemala had still not adopted bill No. 3590 on the establishment of a national commission to investigate their whereabouts, it did have habeas corpus legislation and special investigative procedures. Furthermore, all sentences against persons found guilty of offences involving torture included provision for monetary reparation for victims.

5. **Ms. Ochoa Escribá** (Guatemala) said that shortcomings in the current administrative structure of the Constitutional Court, particularly in its handling of writs of *amparo*, had been recognized and a five-year plan for the reform of the Court had recently been approved. Part of the solution to the problem was to simplify the process of submitting writs of *amparo* by removing some of the administrative procedures involved, also with a view to reducing the considerable backlog of cases currently before the Court. Between 2016 and 2018, the Constitutional Court had ruled on over 5,000 writs of *amparo*.

6. **Mr. Lau Quan** (Guatemala) said that the budget of the Office of the Human Rights Advocate depended upon the Congress of the Republic. At no time had that budget been held back, delayed or withdrawn. A number of bills were still awaiting approval from the relevant congressional commissions. They included bill No. 5376, which proposed legalizing abortion for girls who became pregnant as a result of abuse or violence; bill No. 5299, concerning writs of *amparo*; and bill No. 5377, which proposed amending the National Reconciliation Act. Bill No. 3590 on the establishment of a national commission to investigate the whereabouts of disappeared persons had gone through its second reading and was awaiting placement on the agenda for a plenary session of the Congress. Ratification of the International Convention for the Protection of All Persons from Enforced Disappearance was pending, and he hoped that it too would soon come before the plenary session of Congress. The appointment of members to the preventive mechanism envisaged under the Optional Protocol to the Convention against Torture was scheduled to take place on 15 March 2018.

7. **Ms. Teleguario Sincal** (Guatemala) said that the Inspectorate-General of Labour worked to ensure that labour regulations affecting domestic, agricultural and maquila workers were being duly implemented. During the previous year, the Inspectorate-General had undertaken around 26,500 inspections, which had benefited 629,418 workers. In addition, 885 visits had been carried out to monitor the implementation of Act No. 2989 on the Promotion and Development of Export and Maquila Activities, benefiting 111,703 workers. For the previous three years, the annual budget of the Inspectorate-General of Labour had

oscillated between 28 million and 31 million quetzales (Q), but that amount was expected to rise following the introduction of amendments to the Labour Code.

8. Labour inspections were carried out following a single unified protocol that had been developed with support from the Office of the United Nations High Commissioner for Human Rights (OHCHR) and the International Labour Organization (ILO). In the specific context of the maquila industry, the Ministry of Labour worked with other ministries and State institutions to prevent the unlawful closure of factories and ensure that workers received due payment. Administrative sanctions had been introduced as part of the 2018 reforms to the Labour Code and, during the first two months of 2018, sanctions amounting to a total of around Q 1 million had been imposed.

9. **Ms. Contreras Mejía** (Guatemala) said that, in 2016, the Ministry of Labour and the Ministry for Foreign Affairs had run a campaign to warn Guatemalan migrant workers against fraudulent practices employed by recruiting agencies. As of March 2018, a register of private recruitment agencies would be created, thereby affording greater protection for workers' rights. In addition, the Ministry of Labour had set up a help desk for returning Guatemalan migrants with a view to facilitating their reintroduction into the labour market. In 2017, 224 returning Guatemalan migrants had followed training courses given by the "Instituto Técnico de Capacitación y Productividad" (Technical Institute of Training and Productivity).

10. The Social Welfare Secretariat of the Office of the President had a special department to deal with unaccompanied child migrants, particularly those returning from Mexico or the United States of America. Two shelters had been set up where the children could be accommodated and receive the psychosocial care they needed to reintegrate into their communities. The shelters had welcomed 8,403 children in 2016, 4,328 in 2017 and 1,128 to date in 2018. In cooperation with non-governmental organizations (NGOs), the State had also taken steps to help returning child migrants stay in their own families. A training centre called "Quédate" had been established, which sought to provide support, both to returning child migrants and to children who were at risk of migrating. In 2017, 381 children had been reincorporated into the school system, and 397 so far in 2018.

11. **Ms. Arévalo Flores de Corzantes** (Guatemala) said that the Constitution of Guatemala protected life from the moment of conception. Domestic law admitted only therapeutic abortions to save the life of the mother; otherwise abortion was an offence attracting up to 12 years' imprisonment under the Criminal Code. However, in the light of the fact that large numbers of girls became pregnant as a result of abuse, an initiative to change the law was currently before Congress.

12. **Mr. Figueroa Álvarez** (Guatemala) said that laws on universal and equitable access to family planning services included provision for emergency contraception. Such contraception was also available in cases of sexual abuse, along with antiretroviral treatment and antibiotics, as well as hepatitis B and tetanus vaccines. The conditions most frequently cited for accessing therapeutic abortions included cardiovascular problems, kidney failure, pulmonary tuberculosis and tumours. The patient's condition had to be corroborated by specialists before the abortion could go ahead. According to official statistics, 1,519 therapeutic abortions had been carried out in State-run health facilities in 2017. Media reports that the number of clandestine abortions was as high as 65,000 per year were inaccurate and uncorroborated. A letter of understanding had been signed by the Ministry of Health and the Ministry of Education to promote the sexual and reproductive health education of adolescents.

13. **Ms. Domínguez Sebastián** (Guatemala) said that 21 March had been recognized as the Day for the Elimination of Racial Discrimination, and 21–28 March as the Week of Solidarity with the Peoples Struggling against Racism and Racial Discrimination. As of 2018, ministries and other institutions of State were required to organize regular activities to highlight the importance of combating racism, and to make actions for the implementation of the International Convention on the Elimination of All Forms of Racial Discrimination part of their annual planning.

14. On 4 November 2015, an event had been held in the presence of the Vice-President of the Republic, the director of the national OHCHR office, the Chair of the Committee on the Elimination of Racial Discrimination and leaders of Afrodescendent communities, to

mark the launch of a national plan to achieve the objectives of the United Nations Decade for People of African Descent. In addition, 26 November had been declared as the National Day of the Garifuna People and 25 July as the National Day of Garifuna Women, while Garifuna music and dance had been recognized as an intangible cultural heritage by the United Nations Educational, Scientific and Cultural Organization (UNESCO).

15. The Ministry of Culture and Sports had taken steps to recognize the presence of English-speaking ethnic groups of Indian, Chinese and African descent in the department of Izabal and the Organic Act on the Budget included categories for gender and indigenous peoples. In 2016, thanks to cooperation between the Presidential Commission on Discrimination and Racism and the Government of Mexico, the Mexican television series "Kipatla" had been transmitted on Guatemalan television. The series, which was directed at children, aimed to celebrate human diversity and to combat prejudices and stereotypes. The Secretariat against Sexual Violence, Exploitation and Trafficking in Persons had produced and disseminated material in 13 national languages.

16. **Ms. Véliz López** (Guatemala) said that the Public Prosecution Service had gender-focused protocols for processing the scenes of violent crimes against women. In cases of femicide, prosecutors followed special investigative methodologies, which had been designed to resolve such offences within a period of 72 hours. The Public Prosecution Service also had special protocols for dealing with victims of crime, for human trafficking, for direct and indirect child victims of crime, for children in conflict with the law, for victims of sexual offences and for persons with disabilities. An additional protocol was currently being drafted, which would focus on lesbian, gay, bisexual, transgender and intersex (LGBTI) persons who were victims of crime. In addition, the Lambda organization had held training sessions for staff of the Public Prosecution Service and other law enforcement officials to raise awareness about LGBTI issues.

17. **Mr. de Frouville** said that he noted with concern that members of the private security forces far outnumbered those working in the public security sector, that they were generally working informally and that they were all too often employed by security companies that circumvented regulations introduced to monitor their activities. In that light, he would welcome information about the responsibilities of the Directorate-General of Private Security Services, in particular how it monitored the operations of private security firms and how many visits it had conducted to company premises. He wished to know what accounted for the 37 per cent of private security companies that were reportedly operating outside the law, whether such companies faced penalties and, if so, how often penalties had been applied. In that connection, he was concerned at reports that many private security firms had links to State officials, which enabled them to escape penalty through corruption. If so, that might explain why the sector continued to grow and why the State seemed unable to provide effective oversight. He wondered whether there were plans to increase the capacities of the State with a view to increasing the security services provided and, thus, reducing the disproportionately high number of private security forces operating in the country. He asked what measures were in place to vet private security personnel at the recruitment stage; whether the delegation could provide data on, and specific examples of, persons whose employment had been rejected owing to past human rights violations or criminal activity; and what steps had been taken to punish human rights violations committed by private security personnel, including the number of investigations, prosecutions and convictions, the sentences handed down to perpetrators and the reparations provided to victims.

18. While he welcomed the fact that the Constitutional Court had adopted various decrees abolishing the death penalty for certain offences, he noted that the death penalty remained on the statute book. In that light, he wished to know the status of a bill submitted in 2016 to abolish the death penalty and invited the delegation to comment on reports that several attempts had been made to in fact reintroduce the death penalty, including through bills that contradicted the decrees of the Constitutional Court. He also wondered whether there was any truth to allegations that several high-level public officials had openly criticized the Constitutional Court decisions and defended the use of the death penalty and, if so, what impact those statements had had. Lastly, he asked whether the State party intended to ratify the Second Optional Protocol to the Covenant, aimed at the abolition of the death penalty.

19. **Ms. Abdo Rocholl** said that, regarding persons with disabilities, she wished to know whether the State party had established a system to monitor the application of the National Disability Policy adopted in 2012 and, if so, whether the delegation could provide information on its implementation, process indicators and results. She wondered whether the right to vote was guaranteed to persons with disabilities and, if so, what specific measures had been taken to encourage them to vote; whether the State party intended to amend current legislation relating to persons with disabilities, such as the Act on Services for Persons with Disabilities (Decree No. 135-96), in order to bring it into line with international standards; and whether there were plans to rapidly adopt other relevant bills currently awaiting approval. She was concerned at reports that institutionalized persons with disabilities were automatically deprived of their legal capacity and that persons with disabilities, in particular women and girls who had been victims of sexual abuse were subjected to forced sterilizations and abortions without their consent. She would be interested to know what efforts were being made or were envisaged by the State party to eliminate those practices; whether updated information on the number of prosecutions and convictions of medical and other public-sector staff for the physical or sexual abuse of patients could be provided; and whether any strategies were in place to help deinstitutionalize persons with disabilities. In that connection, she wondered whether an oversight mechanism was in place to monitor mental health or welfare institutions, including whether any visits were conducted by civil society. She invited the delegation to comment on reports that the measures taken to improve conditions in the Federico Mora National Mental Health Hospital had been limited exclusively to building refurbishments rather than to increasing the number of staff, improving medication and enhancing the quality of life of patients.

20. Regarding trafficking in persons, she noted that, according to paragraph 166 of the State party's report (CCPR/C/GTM/4), there had been just 51 convictions out of 2,454 reported cases. She wondered what accounted for such a low conviction rate and whether any updated data could be provided. Concerning the rights of indigenous peoples, she wished to know whether the proposed methodology for consultations with indigenous peoples, as described in paragraph 249 of the report, had been adopted for use in administrative, judicial and other areas; whether any related national guidelines were in place; and what measures had been taken to promote the participation of indigenous persons in decision-making posts. In that connection, she would be interested to hear an account of the context and consequences of the Supreme Court decision (Amparo 1552-2012) which denied the existence of indigenous jurisdiction. Lastly, the Committee had noted that states of emergency had been declared on a number of occasions to resolve social conflicts. How many times had states of emergency been applied between 2012 and 2016 and for what purpose?

21. **Ms. Brands Kehris** said that she was concerned that, despite the improvements indicated by the head of delegation in his opening statement, the already high rate of prison overcrowding was only worsening. Reports indicated that, while the overall overcrowding rate had been 328 per cent in 2017, several prisons had shown rates above 400 per cent and, in the case of El Boquerón prison, in excess of 600 per cent. In that light, she wished to know what measures were being taken or were envisaged to combat prison overcrowding, with details of any specific initiatives, their budgets and their deadlines. In particular, she would welcome information on the new penitentiary management model mentioned in the previous meeting, in particular whether it had been implemented at the women's centre in Fraijanes. She wondered whether plans by the Directorate-General of the Prison System to commute the sentences of prisoners who had served enough of their sentences had been implemented and, if so, what categories of offenders were involved; whether it was a one-time measure or ongoing; and whether any data regarding its impact could be provided. She noted that mention had been made in the opening statement to a bill to amend article 268 of the Code of Criminal Procedure, which dealt with the grounds for terminating imprisonment, and wondered whether more information could be provided on the proposed changes and the time frame envisaged for the bill's adoption. She would welcome data and information on the measures being taken to ensure that, in practice, persons deprived of liberty were consistently separated according to their gender, age and gravity of offence and that pretrial and convicted detainees were held separately.

22. The Committee was gravely concerned at the high levels of violence in prisons, which, over the past three years, had resulted in more than a hundred violent deaths. She wished to know what action had been taken or was envisaged to ensure the safety of detainees and, in particular, to address self-government in prisons controlled by organized gangs and combat the extortion rings run by such gangs. She wondered whether the early warning system for crises and emergencies in prisons, which was mentioned in paragraph 169 (e) of the State party's report, had been drafted and piloted and, if so, what the results had been. In 2017, rioting had occurred in a number of places of detention, including in the Las Gaviotas pretrial detention centre for juveniles, where a three-day-long riot had resulted in the deaths of, among others, three adolescents. She asked what measures had been taken to maintain control of such institutions; what protocols had been drawn up and training provided to staff on dealing with riots; what action had been taken to implement the precautionary measures of the Inter-American Court of Human Rights regarding the country's four juvenile detention centres; and whether there were any plans to reform or even close those centres. She would welcome information on the budget allocated and measures taken to improve the prison infrastructure, including an update on the status of the detention centres under construction. In that connection, she would appreciate updated information on the status of the ten-year National Prison Reform Policy adopted in 2015, in particular the measures taken and those envisaged for 2018, the total budget allocated to the Policy and the proportion of that budget so far used. She would also be interested to know what action had been taken to ensure access to health for persons deprived of liberty and to provide care for vulnerable groups, including women and lesbian, gay, bisexual, transgender and intersex (LGBTI) persons.

23. Persons held in pretrial detention accounted for between a third and, in the case of women detainees, up to half of all persons deprived of their liberty. She would welcome updated data on the number of people held in pretrial detention, disaggregated by age, gender and ethnic origin, as well as more information on the Telematic Surveillance Act, adopted in 2016, in particular whether the Act was in line with articles 9 and 10 of the Covenant; when it would be implemented; whether any forecasts had been conducted to determine the extent to which it would reduce the use of pretrial detention; and whether any other steps were being taken to ensure that pretrial detention was used only as an exceptional measure. The delegation should also comment on reported shortcomings in the processing of criminal cases, in particular the shortage of judges and public defenders, and on delays in releasing persons deprived of liberty even after they had served their sentence.

24. She would appreciate up-to-date information regarding the implementation of the National Policy on Prevention of Violence and Crime, Citizen Security and Harmonious Relations for the period 2014–2034, including the specific measures taken, the budget allocated and the results of any impact assessments concluded. She would also be interested to know what further activities were planned and the details of the associated funding. Notwithstanding a slight overall decline in the number of violent deaths in the State party in 2017, there had been an increase in the femicide rate. She wondered what reasons were underlying the number of violent deaths of women and whether the National Policy and other measures were being reviewed and adapted in that light.

25. The Committee was concerned at reports that, despite the efforts of the State party, the number of deaths through mob justice, or lynching, was increasing rather than decreasing, with 28 persons killed in that manner in 2017. She wished to know how many such cases had been investigated over the past five years, including the number of prosecutions and convictions and the types of sentences handed down; why there seemed to be an increase in mob justice; and what measures were being taken to combat the problem. She noted that efforts had been taken to seize firearms and ammunition and wished to know how many firearms there were among the general population at the present time; what impact the relevant legislation, regulations and policies were having; and whether any other initiatives were planned to reduce the prevalence of such weapons in society.

26. Violence against trade unionists had, since 2007, resulted in more than 70 homicides. She would appreciate information on the criminal proceedings so far conducted, with particular reference to the homicides they related to and the sentences handed down to perpetrators. She would also be interested to know how many cases of violence against trade

union members had been recorded in 2017 and invited the delegation to comment on allegations that harassment and violence of trade unionists by the private sector often had the backing of public officials. Lastly, she would appreciate responses to the questions she had raised in the previous meeting regarding the implementation of the National Reparations Programme.

27. **Mr. Santos Pais** said that he was concerned that 2010 data showed that there were just 6.7 judges per 100,000 inhabitants in Guatemala, the lowest rate in Central America. He wished to know how many judges there were in the State party at the present time, including their gender and their distribution in the different courts. Similar information should also be provided on public prosecutors. In that connection, he asked whether the term of the current Attorney General of the Republic, Thelma Aldana, which was due to expire in May 2018, was likely to be renewed. He wondered whether the delegation could provide an update on the status of constitutional reform of the justice system; what measures were envisaged to guarantee the independence of the judiciary and the Public Prosecution Service; and whether the State party intended to transfer responsibility for the appointment of judges from the Congress to an independent body, thus avoiding any suspicion of political interference. He would also welcome an update on the implementation of the Judicial Service Act and, in particular, whether the three remaining members of the Judicial Career Council had been appointed. He further asked how many of the 640 cases of threats and intimidation against judges and magistrates reported between 2002 and 2012 by the Inter-American Commission on Human Rights had been duly investigated, prosecuted and punished by the Unit for Prosecution of Crimes against Justice Officials.

28. Regarding children in conflict with the law, he requested data disaggregated by sex and age on the number of young persons in detention. The delegation was also invited to clarify the steps taken to ensure that young persons in conflict with the law were accommodated in suitable centres that facilitated their reintegration into society, particularly young persons from indigenous backgrounds. An update on the living arrangements of the children who had survived the fire at the Virgen de la Asunción shelter would also be welcome, including information on measures taken to offer them appropriate, alternative accommodation. Had new shelters been opened across the country to offer at-risk children protection in their local communities? Noting the high number of children being forced into work, he wondered what progress had been made to implement the road map for the elimination of child labour. He also wished to know what steps had been taken to facilitate the registration of births, particularly in rural areas and for parents in irregular situations.

29. Turning to the issue of gender equality, he asked what measures had been taken to combat discriminatory practices and prevent sexual harassment and abuse in the workplace. In the light of the establishment of the National Policy for Violence and Crime Prevention, Citizen Security and Peaceful Coexistence, he wished to know what efforts had been made to reduce the high military presence across the country and bring members of the military to account for violations of the law. Data on the number of investigations, prosecutions and sanctions handed down would be welcome in that regard. Lastly, he asked what steps had been taken to promote and support the work of local community radio stations, pursuant to the 1996 Guatemalan Peace Accords.

30. **Ms. Cleveland** asked the delegation to confirm whether the latest abortion bill decriminalized abortion for adolescent girls in cases of rape and provided for the provision of emergency contraception. Expressing concern at the violence, harassment and stigmatization facing human rights defenders and journalists, she wished to know what financial, human and material resources had been made available to the Unit for the Analysis of Attacks against Human Rights Defenders. She also wondered what progress had been made in establishing a programme aimed at protecting journalists and tackling the immunity afforded to perpetrators of acts of harassment and abuse against journalists and human rights defenders, particularly in rural areas. Concrete data on the number of cases investigated, prosecuted and sentences handed down would be particularly welcome. It would also be useful to know what impact the adoption of bills relating to NGOs, public order and combating terrorism would have on the activities of human rights defenders and what specific training had been provided to police officers, prosecutors and judges on the right to freedom of expression, association and assembly.

31. Turning to the issue of corruption, she expressed concern at the Government's attempts to weaken the Office of the Attorney General and the decision by the President to expel Mr. Velásquez, the head of the International Commission against Impunity. She wished to know what measures would be taken to guarantee the independence of the Attorney General and ensure that the current election process was not subject to corruption and political interference. She also requested further information on the steps taken to accelerate the legal process for corruption cases and ensure that justice was delivered in a timely fashion.

The meeting was suspended at 11.45 a.m. and resumed at noon.

32. **Mr. Pineda Barales** (Guatemala), responding to questions regarding prison overcrowding, said that judges made every effort to alleviate the situation and handed down alternative sentences wherever possible. Despite the difficulties facing the prison system, men, women and children continued to be held separately. The Government had plans to introduce the latest electronic and technical systems to improve surveillance of persons subject to alternative sentences to imprisonment. Financial and technical constraints however meant that such technology was not available in all areas of the country. In regard to prisoners being released in a timely fashion following the completion of their sentence, he stressed that prisoners could apply for early release as long as they demonstrated good behaviour and their intention to study or find work. As for the minors who had been involved in the conflict at the Gaviotas correctional centre, they had been transferred to other detention facilities.

33. The judiciary was fully impartial and independent. The remaining members of the Judicial Career Council had been appointed and the Council had become fully operational. It was responsible for the admission, transfer, promotion and performance evaluation of judges. To eradicate corruption, an online Government procurement portal had been established, which provided transparency in national tendering and purchasing processes. The election process for the Attorney General had been fair and conducted in a fully transparent manner. The commission responsible for nominating the chosen candidate comprised representatives from the Guatemalan Bar Association and deans of several national law faculties. The Organization of American States had also provided ongoing technical support throughout the process.

34. **Ms. Ochoa Escribá** (Guatemala) said that the Constitutional Court had declared the death penalty unconstitutional in line with the recommendation of the Inter-American Court of Human Rights. Its ruling had the de facto effect of abolishing the death penalty. The Constitutional Court had also recognized the legal jurisdiction of indigenous peoples and their world vision.

35. **Mr. Lau Quan** (Guatemala) said that the Government had tabled a bill seeking to abolish the death penalty. The bills on local community radio stations, abortion and the rights of persons with disabilities were also in the process of adoption. He confirmed that the bill on abortion would allow for termination of pregnancy in the case of rape of a minor. The bill to reform the Code of Criminal Procedure would limit pretrial detention to 1 year, with the aim of alleviating prison overcrowding.

36. **Ms. Véliz López** (Guatemala) said that 312 cases had been brought against private security services between 2010 and 2015. Between 2015 and 2017, 829 cases of offences against persons with disabilities had been reported and investigated, around 118 of which had resulted in convictions. There had been 2,454 cases of trafficking in persons reported between 2010 and 2015, some 51 of which had been investigated and punished. The Government had made specific efforts to tackle child pornography in recent years, which had resulted in 63 convictions. Between 2015 and 2018, some 2,581 women and 17,526 men had been held in pretrial detention. There had been 18 cases of lynching reported between 2015 and 2018. Between 2010 to 2018, some 9,700 firearms had been seized. The Government had been working with the Directorate-General of Arms and Ammunition Control to coordinate the registration and calculate the total number of firearms in the country.

37. The Attorney General would be completing her mandate in May 2018 and had decided not to stand for re-election. Her replacement would be selected according to a rigorous and transparent nomination procedure. As of 2018, some 41 per cent of prosecutors were women and 59 per cent men. Between 2014 and 2018, the number of women

prosecutors had increased by 3 per cent. Some 19 women (66 per cent) and 9 men (34 per cent) held decision-making positions in the Public Prosecutor's Office. Between 2015 and 2018, 33 girls and 1,943 boys with an average age of between 13 and 17 had been in conflict with the law. The Government had taken the necessary steps to ensure that pregnant girls or teenage mothers in conflict with the law had their sentences shortened or commuted into an alternative sentence, pursuant to the recommendation made by the Inter-American Court of Human Rights.

38. She said that 85 trade unionists had been killed between 2014 and 2017. The frequency of such events had decreased significantly since 2009. Four suspects had been detained in connection with the death of a journalist in 2017. In total, 21 convictions had been handed down for murders of trade unionists between 2007 and 2017. In all but one of those cases, the victim's trade union activities had not been the motive for murder. From 2014 to 2017, a total of 694 offences against human rights defenders and 408 offences against journalists had been reported and 96 sentences had been handed down for such offences.

39. **Ms. Teleguario Sincal** (Guatemala) said that the General Labour Inspectorate monitored private security companies to ensure their compliance with the Labour Code. Such companies were also monitored by the Ministry of Labour: in 2018, the Ministry had inspected 60 private security companies and had imposed sanctions on two of them for violations of workers' rights. Under the national employment policy, steps were being taken to promote inclusive employment, to increase the employability of persons with disabilities through the provision of training and to encourage entrepreneurship among such persons.

40. The methodological guide on the consultation of indigenous peoples, which had been adopted in June 2017, had been drafted in collaboration with more than 2,300 leaders of indigenous communities. A bill on the consultation process was to be discussed that day by the Congress. The Constitutional Court had ruled that the bill must be adopted by May 2018. Under a tripartite agreement signed in 2017 with representatives of workers and employers, the Government had undertaken to establish a national tripartite commission on labour relations and freedom of association and was drawing up new legislation in that area.

41. **Mr. González Patal** (Guatemala) said that the rights of indigenous communities were promoted by 31 entities, including central government departments, decentralized institutions and independent bodies. There was an annual budget for the provision of support to such communities. The Guatemalan Indigenous Peoples Development Fund was used to promote the economic, social, cultural and political rights of indigenous peoples throughout the country. The staff of the Fund included over 70 indigenous persons. Two new regional branches of the Fund had been set up in 2017. The president of the Fund's national board of directors was of Garifuna origin. In 2017, the Fund had provided 5.3 million quetzales (Q) to support productive projects in 66 indigenous communities.

42. **Ms. Contreras Mejía** (Guatemala) said that, following the fire at the Virgen de la Asunción children's home, the home had been shut down. The children who had been living there had been rehoused in institutions that were under the supervision of the Social Welfare Secretariat. Steps were being taken to provide psychosocial support for survivors of the fire and to promote deinstitutionalization by improving the foster care system. In addition, support had been provided to over 200 children who had been returned to their families.

43. The budget for the four juvenile detention centres amounted to approximately Q 37 million. Those centres were staffed by supervisors and multidisciplinary teams of professionals, including doctors and nutritionists. The Social Welfare Secretariat had taken measures to prevent riots in the centres: supervisors had been given additional training, protocols had been reviewed and updated and a new director of operations and logistics had been appointed. Various plans and projects were being implemented to reduce the number of juvenile detainees, to improve the living conditions in juvenile detention centres and to facilitate the reintegration of juvenile detainees into society.

44. The Social Welfare Secretariat had established a subsidy scheme to enable the deinstitutionalization of children and adolescents with disabilities who were in situations of poverty; over 1,800 subsidies had been awarded under that scheme in 2017. It was also working to improve the provision of specialized foster care for children with disabilities.

45. **Ms. Arévalo Flores de Corzantes** (Guatemala) said that, following the recent riot at Las Gaviotas juvenile detention centre, public defenders had been dispatched to provide information to the families of the adolescents concerned, to investigate the situation of those adolescents and to determine whether they had suffered injuries during the riot.

46. **Ms. de León Godínez** (Guatemala) said that the national policy for the advancement of women was being implemented through inter-institutional coordination at the highest level, in consultation with civil society organizations and women's organizations. In 2016, over Q 450 million had been invested in projects to support women. In 2017, the budget for such projects had increased to around Q 750 million. Local authorities had identified priority areas, such as health and sanitation, in which measures could be taken to improve the situation of women and the quality of local services. A specific methodology had been adopted to ensure that the necessary resources were provided for the effective implementation of the national policy for the advancement of women throughout the country. The national plan for the prevention of domestic violence and violence against women was being reviewed.

47. **Mr. Dávila Mejicanos** (Guatemala), summarizing the information provided in paragraphs 135 and 138 of his country's report, said that private security services were monitored by the Directorate-General of Private Security Services and the National Civil Police. A total of 184 private security companies had been granted authorization; 124 of those companies had been awarded a licence, while 60 of them operated under a ministerial agreement. There were 43,539 accredited private security guards.

48. A technical committee, composed of representatives of the Public Prosecution Service, the Ministry of the Interior and various other bodies, had been set up to combat the illegal provision of private security services. An operation had been conducted in May 2016 to shut down two illegal companies on the south coast. The three owners of those companies were being brought to trial. In 2012, the constitutionality of articles 67 (b) and 68 of Decree 52-2010, regulating private security services, had been challenged, but the claim had been dismissed by the Constitutional Court.

49. Seven army squadrons had been posted to the border areas to safeguard natural resources, protect State sovereignty and provide inter-institutional support. Any action taken by those squadrons to combat illegal immigration would be overseen by the Ministry of the Interior and carried out in coordination with the National Civil Police.

50. **Mr. Obregón Muñoz** (Guatemala) said that, under a new programme launched in 2017, conditional cash transfers were provided to support pregnant girls and mothers under the age of 14 who had suffered sexual abuse and whose cases had been brought to court. The programme had benefited 65 persons thus far.

51. **Mr. Figueroa Álvarez** (Guatemala) said that emergency contraception was available only in cases of rape. Between 2017 and 2018, the Federico Mora National Mental Health Hospital had gained an additional 70 staff members, including nurses, social workers and administrative personnel.

52. **Ms. Brands Kehris** said that it would be helpful if the State party could provide additional information within 48 hours on the National Reparations Programme and on the number of prosecutions and convictions for lynching.

53. **Ms. Abdo Rocholl** said that the State party's additional written replies should include information on efforts to ensure access to justice for indigenous communities through the provision of interpreters; steps taken to ensure access to property for those communities; and progress made with respect to the implementation of the Recommendations Monitoring System (SIMORE).

54. **Mr. de Frouville** said that he wondered what the Government hoped to achieve by submitting a bill on the abolition of the death penalty to Congress, given that the bill was likely to be rejected and the death penalty was, in practice, no longer used.

55. It would be helpful if the State party could explain the disparity between the statistics provided in the annexes to its report and those provided by the delegation regarding the number of sentences handed down for offences committed by private security agents.

56. **Mr. Borrayo Reyes** (Guatemala) said that he wished to highlight that the mandate of the International Commission against Impunity had been extended by two years. Although his country had made significant progress in the protection and promotion of the rights enshrined in the Covenant, it was aware that further challenges lay ahead. It would welcome the Committee's recommendations, which would, without a doubt, help the Government to further strengthen its protection of human rights.

57. **The Chair**, thanking the delegation for engaging in a rich and constructive dialogue, said that the Committee had raised concerns about a wide range of issues, including femicide and gender-based violence, pretrial detention and the treatment of indigenous peoples. He hoped that the dialogue and the Committee's concluding observations would help the State party to improve its implementation of the Covenant.

The meeting rose at 1 p.m.

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Summary record of the 3456th meeting
Held at the Palais Wilson, Geneva, on Tuesday, 13 March 2018, at 3 p.m.

Chair: Mr. Iwasawa

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Seventh periodic report of El Salvador

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The meeting was called to order at 3 p.m.

Consideration of reports submitted by States parties under article 40 of the Covenant (*continued*)

Seventh periodic report of El Salvador (CCPR/C/SLV/7; CCPR/C/SLV/QPR/7)

1. *At the invitation of the Chair, the delegation of El Salvador took places at the Committee table.*

2. **Ms. Guillén** (El Salvador) introduced the seventh periodic report of El Salvador (CCPR/C/SLV/7), which had been prepared by an inter-agency team under the leadership of the Ministry of Foreign Affairs. She said that her country was firmly committed to ensuring compliance with the Covenant, as evidenced by the great strides it had made in the sphere of human rights. The Government had adopted an inter-agency, intersectoral approach to protecting human rights, including the establishment of mechanisms for ensuring citizen participation and accountability.

3. The Government's reparations policy for the victims of the Salvadoran armed conflict, in place since 2009, had translated into acts of great significance, including formal apologies to victims; the implementation, in 2013, of the Programme of Reparations for Victims of Serious Human Rights Violations Committed during the Internal Armed Conflict; and the establishment, also in 2013, of a commission tasked with searching for adults who had disappeared during the internal armed conflict, following the establishment of a similar commission, for children, in 2009. Moreover, in 2016, the Supreme Court had ruled that the General Amnesty Act was unconstitutional, which in turn had led to the launch of investigations into gross human rights violations committed during the conflict.

4. Advances had also been made in the protection of the rights of women and girls. Notable measures included the National Intersectoral Strategy to Prevent Pregnancy among Girls and Adolescents 2017–2027 and the National Strategic Plan for Comprehensive Maternal and Child Health Care 2015–2019. In 2016, special courts had been created to hear cases involving crimes against women.

5. El Salvador was currently working to strengthen the capabilities of the national police force responsible for combatting human trafficking. In addition, an inter-agency protocol for the delivery of comprehensive support to victims of human trafficking was expected to be adopted shortly.

6. In 2017, legislative amendments had prohibited both the marriage of persons under the age of 18 years and school bullying and had strengthened the rights of adolescent detainees. That same year, the National Council for Children and Adolescents had provided technical assistance towards the establishment of 36 local committees dedicated to the protection of children's and adolescents' rights. The Salvadoran Institute for Comprehensive Child and Adolescent Development had established a network to address the plight of children living in street situations, which remained a challenge.

7. Several measures had been taken to address the issue of unaccompanied migrant children. Prompted by an increase in the irregular migration of unaccompanied children towards the United States of America during the second half of 2014, the Government had strengthened consular networks to support legal mechanisms enabling family reunification, and a road map and protocol had been developed for the protection of migrant children. In addition, the National Policy on the Comprehensive Protection of Children and Adolescents (2013–2023) included strategies for the State institutions responsible for migration.

8. Since 2009, particular efforts had been made to promote the rights of the lesbian, gay, bisexual, transgender and intersex community. A training manual on sexual diversity had been published for the National Civil Police and the National Academy of Public Security. In addition, a dedicated telephone hotline provided support to victims of discrimination based on sexual orientation and gender identity.

9. The Government had adopted a multifaceted approach to establishing lasting peace and security throughout the country. The Safe El Salvador Plan, developed in broad consultation with all sectors of society, was based on five pillars: prevention of violence;

criminal prosecution for offences; rehabilitation of offenders; protection of victims; and strengthening of institutions. Guidance such as the Manual on the Use of Force and Lethal Weapons by the National Civil Police and procedures such as the Inter-Agency Coordination Mechanism to Strengthen Internal Controls at Security Institutions ensured that the actions of the authorities responsible for security were conducted in strict compliance with the law.

10. **Ms. Cleveland** said that she would like to hear about any training given to lawyers, judges, prosecutors and the general public regarding the Optional Protocol to the Covenant. She wished to know whether the State party had a formal mechanism for ensuring that draft legislation was in line with the Covenant. It would also be useful to learn whether a standing interministerial mechanism was in place to coordinate the reporting, implementation and follow-up processes associated with treaty body recommendations. She would be interested to hear about how El Salvador had engaged with civil society to prepare the periodic report and about plans to involve civil society in the implementation of the Committee's recommendations.

11. She would appreciate information on plans to expand existing efforts to combat gender-based violence; given the widespread nature of the problem, the measures taken thus far, although commendable, were insufficient. She wished to know what steps had been taken to implement the recommendations issued to El Salvador by the Committee on the Elimination of Discrimination against Women in 2017. It would also be helpful to learn more about the special courts established in 2016 to address women's issues.

12. The Committee would appreciate information on the measures taken to improve the collection of data on domestic violence and violence against women and to improve coordination between data-collection mechanisms; to address the high rate of impunity for perpetrators of gender-based violence; to combat gender stereotypes within law enforcement and the judiciary; to increase reporting of sexual crimes; and to protect girls and female adolescents from gang violence.

13. In the light of reports of reluctance to apply the definition of femicide as introduced in domestic legislation, she wondered whether the State party had plans to enhance the authorities' understanding of femicide. She also wished to hear about the steps being taken to improve application of the Procedural Protocol for Investigating Femicide and would welcome information on how the State party was addressing the recommendation to prohibit reconciliation in all cases of domestic violence.

14. The Committee would appreciate an account of the judicial consequences of the invalidation of the General Amnesty Act, including details on the number of cases which had been reopened since the Act had been ruled unconstitutional. It would also welcome information on the special unit assigned to investigate gross violations of human rights, including details on the resources allocated to the unit. Information on the measures taken to ensure the cooperation of the armed forces during investigations into human rights violations would likewise be appreciated.

15. Given the precautionary measures granted by the Inter-American Commission on Human Rights, she would be interested to hear about the efforts made to ensure the protection of the office and person of the Attorney General, and of civil society, and to ensure the independence and adequate funding and staffing of the offices of the Attorney General and of the Counsel General (of the Republic). She would also appreciate information on the status of the proceedings concerning the El Mozote massacre.

16. It would be helpful if the delegation could provide statistics on enforced disappearances in El Salvador. The Committee would appreciate details on the commission that had been created to search for adults who had disappeared during the internal armed conflict. It requested further information on the sustainability of the measures taken to locate disappeared persons; the possibility of requesting international assistance to strengthen forensic and investigative capacity; and plans to ratify the International Convention for the Protection of All Persons from Enforced Disappearance.

17. **Mr. Santos Pais** said that he wished to learn more about the Office of the Human Rights Advocate, including details on its independence and budget. He would also like to

know what steps had been taken to protect it from threats such as those posed by the reported recent theft, from the Office, of computers containing highly confidential information.

18. In the light of the figures for women's representation in public office, ranging from around 10 per cent (local mayors) to around 30 per cent (members of the Legislative Assembly), he would like to know what measures were envisaged to increase women's participation in political life. He would also like to know what percentage of judges and prosecutors were women and what posts they occupied.

19. Wage differentials between men and women had widened, not narrowed, in recent years, and according to the 2017 World Economic Forum Global Gender Gap Report the average monthly pay for women was 63.4 per cent of that of men for work of equal value. He asked what measures the State party envisaged to ensure both formal and substantive equality between men and women in the labour market. He would also be interested to know what steps were being taken to prevent workplace harassment, notably by encouraging victims to make complaints and thereby reduce impunity.

20. He would appreciate receiving information concerning the impact of the creation of the National Commission on Reparations for the Victims of Human Rights Violations in the context of the Internal Armed Conflict. He would further like to know how many victims had benefited from the reparations programme and what order of expenditure was involved. Noting that numerous victims were known to have died before receiving the amounts due, he said it would be useful to learn what steps were being taken to prevent delays in the disbursement of reparation to victims. An update on the status of the Register of Victims and on the progress made in discussions in the Legislative Assembly on the bill on comprehensive reparations for victims of the armed conflict would also be appreciated.

21. He wondered whether the State party intended to adopt legislation to ensure that the national commission on the search for children who had disappeared during the internal armed conflict would be able to continue its work; and he would like to know what human and financial resources had been placed at the disposal of the new commission tasked with searching for adults who had disappeared during the internal armed conflict. What was the total budget for 2018 for reparations to victims of serious human rights violations and victims of the internal armed conflict?

22. He would appreciate information on any steps taken by the Attorney General's Office to investigate the 89 complaints of serious human rights violations received in 2017. Specifically, it would be interesting to learn what measures had been taken by the Office to reinforce training for judges and prosecutors in international human rights and humanitarian law, including issues such as summary execution, enforced disappearance and torture.

23. The armed forces had been involved in civil security for many years; more than 14,000 troops were currently assigned to such duties. He would like to know what the State party's intentions were for the medium and long term: did it plan to continue using the armed forces for civil security purposes or would it focus on reinforcing the civil police? In recent years there had been hundreds of complaints concerning the actions of the armed forces engaged in civilian security operations, including allegations of extrajudicial executions. He would be interested to know how many such complaints had been investigated, how many had come to trial and what penalties had been imposed; details on the military ranks of those involved would also be appreciated.

24. He would like to know what measures were envisaged to strengthen the Technical and Scientific Division of the National Police, and what steps were being taken to gradually increase the capacity of the police force and the Attorney General's Office to conduct investigations without the assistance of the armed forces. Specifically, he wished to know what steps the State party intended to take to guarantee that all human rights violations by members of the armed forces on civilian security duty were investigated, tried and punished. He would appreciate receiving statistical data on any such cases over the past three years.

25. **Mr. Ben Achour** commended the State party on its amendment to article 63 of the Constitution recognizing indigenous peoples. There were surprising variations in the statistics on indigenous peoples in El Salvador, however: estimates of the number of

indigenous persons as a percentage of the total population ranged from 0.23 per cent to 12 per cent. Some NGOs maintained that the Government manipulated the figures by classifying some groups as mestizo in order to minimize the number of indigenous peoples: he would appreciate hearing the delegation's reaction to such criticism. Could the delegation provide an official figure for the percentage of indigenous people in El Salvador?

26. Despite the State party's efforts, over 60 per cent of the indigenous population still lived in poverty and nearly 40 per cent in extreme poverty. He would like to know what the Government was doing to rectify that situation, which amounted to discrimination. Indigenous people living in poverty were easy prey for organized crime and he wondered whether the Government intended to take firm preventive action in that regard.

27. He would appreciate hearing more about the content and progress of two new bills currently before the Legislative Assembly, one on a comprehensive response to the HIV/AIDS epidemic and the other on migration.

28. Despite the efforts made by the State party to protect sexual minorities from discrimination and stigmatization, as described in the periodic report, such discrimination persisted in certain areas. When applying for identity cards, for example, members of the lesbian, gay, bisexual, transgender and intersex community were reportedly subjected to ridicule, negative stereotyping and generally discriminatory attitudes. Hostility of a similar kind had dissuaded transgender persons from exercising their right to vote in the 2014 elections. Transgender persons were apparently also the victims of harassment and violence on the part not only of criminal gangs but also of the police. He would like to know whether the State party intended to adopt legislation on the subject of sexual orientation and gender identity in order to protect sexual minorities. He wondered what protection the Government could offer transgender persons in order to enable them to participate in elections. There appeared to be a degree of complacency towards those who expressed negative attitudes towards transgender persons and he would like to know how the Government intended to tackle the problem.

29. **Mr. de Frouville**, referring to the report of the Special Rapporteur on contemporary forms of slavery, including its causes and consequences, on her mission to El Salvador in 2016 (A/HRC/33/46/Add.1), said that, despite the State party's efforts, there were still problems in the maquila, homeworking and agricultural sectors that appeared to indicate the existence of forced labour, in contravention of article 8 of the Covenant. He would like to know what progress was being made in implementing the Special Rapporteur's recommendations to ensure that public procurement contracts contained clauses prohibiting forced labour, to strengthen the labour inspectorate in order to ensure compliance with the legal standards regarding forced labour, and to review the relevant regulations to ensure that businesses operated in accordance with international standards such as the United Nations Guiding Principles on Business and Human Rights.

30. He wondered what progress had been made towards providing social security coverage for homeworkers and agricultural workers and whether it would be possible to bring them within the competence of the labour inspectorate. It would be interesting to hear what progress had been made towards ratification of the International Labour Organization (ILO) Domestic Workers Convention, 2011 (No. 189).

31. Salvadoran women seeking abortions were doubly at risk, firstly because of the illegal nature of the operation and secondly because they were liable to prison sentences of up to 30 years, even where the baby was in fact lost as a result of a miscarriage or where the pregnancy was the result of rape. Of the 129 women prosecuted for pregnancy-related offences between 2000 and 2011, at least 27 were still in prison. He would welcome information on the status of the draft amendment to the Criminal Code currently before the Legislative Assembly, which set out the cases in which abortion would not be punishable; he would further like to know in what situations it was proposed that such an exemption might apply. In addition, could the delegation comment on reports that other bills were in the pipeline to impose even harsher penalties for "homicide" in such cases? He would like to know what measures were in place to prevent women seeking treatment in a medical emergency from being reported by staff and whether staff who refused treatment or

reported a patient were liable to criminal prosecution or disciplinary sanctions for failure to treat a person at risk.

32. He would be interested to know what the mission of the Ministry of Health's Unit for Comprehensive and Integrated Sexual and Reproductive Health Care was, and what action it took in pursuit of that mission. Noting that children and adolescents had a legal right to receive information and education on sexual and reproductive health, he said that he would like to know how that right was realized. What was the role of the support centres set up under the Women's City Programme? Did they dispense medical treatment or simply advice? It would be interesting to know what precautions were taken to ensure that any advice and information provided was objective, particularly with regard to abortion. Lastly, he noted that, in the context of the zika epidemic, the public had not been informed that it was possible to obtain oral contraception as a matter of urgency; he would like to know why not.

33. He understood that, following a recent reform, the Inspectorate-General of Public Security only investigated disciplinary matters; he therefore wondered which bodies investigated criminal matters involving officials of the National Civil Police. The State party's report had described two measures taken to protect victims during investigations; he was interested to know whether only two such measures had been taken in total or whether those mentioned were simply examples. Furthermore, he would like to know whether it was true that victims of human rights violations committed by police officers had to launch independent civil proceedings to obtain reparation, because reparation was never automatically granted in such cases. In addition, he would appreciate clarification as to the nature of the decisions of the Office of the Human Rights Advocate, referred to in paragraphs 107 and 108 of the State party's report, specifically whether they were convictions or decisions to launch inquiries.

34. Lastly, the Committee had received reports of so-called death squads operating within the National Civil Police, illegal groups that allegedly performed summary executions of suspected criminals. He would welcome the delegation's comments on those reports, as well as information on any proceedings instigated against those who took part in such activities.

35. **Mr. Shany** said that it was unclear what legal procedures and safeguards governed release from and internment in institutions on mental health grounds. He would welcome further information on the grounds for the deprivation of liberty of persons with psychosocial or intellectual disabilities, on any procedures set up to review administrative decisions on involuntary hospitalization on mental health grounds, and on any specific safeguards in place when decisions were made regarding the institutionalization of minors. Furthermore, he would appreciate the State party's comments on any progress it had made in implementing the recommendations of the Committee on the Rights of Persons with Disabilities, made in 2013, with regard to involuntary institutionalization, the accommodation provided to persons with disabilities in ordinary penitentiary centres, and reports of practices in psychiatric institutions that could be qualified as cruel, inhuman and degrading treatment or punishment, such as the use of restraints. Following its visit to El Salvador, the Working Group on Arbitrary Detention had expressed concern regarding overcrowding in the National Psychiatric Hospital. He would therefore appreciate further information on any action taken to reduce overcrowding, as well as information on the State party's progress in the implementation of the Caracas Declaration of the Pan American Health Organization. In addition, he would welcome the delegation's comments on reports that experimental treatments had been tested on psychiatric patients without their prior, free and informed consent, as well as a report published by the Inter-American Commission on Human Rights in November 2017 indicating that the State party continued to carry out forced sterilization and abortion on women with disabilities.

36. He welcomed the State party's progress in tackling the issue of human trafficking, but wondered whether the delegation could provide additional, updated information in that regard, including statistics broken down by year. He would also be grateful for information on the sentences imposed on perpetrators of trafficking offences, the reparations offered to victims, and the issuance of protection measures. More generally, it would useful to know how large a budget had been allocated for the application of the National Policy on

Trafficking in Persons and whether the regulations of the Special Act on Trafficking in Persons had been implemented. The Committee had received reports of the trafficking of women and girls by organized gangs linked to narcotics-related crimes, as well as reports that investigations into such activity were blocked by corrupt elements in the judicial system. For example, some reports claimed that prison guards had been investigated for acting as accomplices to trafficking-related crimes. He wondered whether the delegation could provide any information in that regard, as well as statistics on minors involved in trafficking offences. He would also appreciate the delegation's comments on reports that persons who paid for sexual services performed by minors were not brought to justice.

37. The 2017 Trafficking in Persons Report of the United States Department of State indicated that members of the lesbian, gay, bisexual, transgender and intersex community, especially transgender persons, were particularly vulnerable to trafficking. In addition, there had been reports that Salvadoran migrants who irregularly entered the United States of America were subjected to forced labour. He wondered whether the delegation could comment on those two issues. Lastly, he was interested to know whether the State party had taken steps to implement the recommendation made by the Committee on the Elimination of Discrimination against Women in its concluding observations on El Salvador in 2017 with regard to the establishment of a strategy to protect young women and girls from trafficking and to tackle discrimination against female prostitutes on the part of police officers and health-care officials.

38. **Mr. Muhumuza** said that persons of African descent were underrepresented in the State party's delegation. He wondered whether that was indicative of the representation of Afrodescendent peoples in El Salvador in general. With that in mind, he would welcome information regarding any advocacy programmes or affirmative action undertaken by the Salvadoran Government to ensure that persons of African descent played an active role in mainstream society.

39. **Mr. Heyns** said that according to paragraph 119 of the State party's periodic report, in May 2016, the Salvadoran Government had announced the establishment of a coordination mechanism to strengthen the internal controls of its public security institutions. However, in February 2018, the Special Rapporteur on extrajudicial, summary or arbitrary executions had indicated that she had discovered a pattern of behaviour among public security officials amounting to extrajudicial executions and the excessive use of force, which had been met by a weak institutional response, including at the investigatory and judicial levels. He therefore wished to know whether the coordination mechanism mentioned in the report was effective and would welcome an explanation of how it worked. Furthermore, he was interested to know in what circumstances Salvadoran legislation allowed public-security officials to use force. Lastly, it would be useful to hear whether the State party had plans to reform its legislation governing the use of force.

The meeting was suspended at 4.35 p.m. and resumed at 5 p.m.

40. **Mr. Ramírez Landaverde** (El Salvador), responding to questions put by Mr. Ben Achour, said that the amendments to articles 129 and 155 of the Criminal Code mentioned in paragraph 31 of the State party's report represented a major step forward in terms of the protection of lesbian, gay, bisexual, transgender and intersex persons in El Salvador. The implementation of those amendments by the staff of penitentiary centres, the National Civil Police, the Public Legal Service and the judicial system had already begun.

41. The number of crimes involving murder, bodily harm and threats targeting lesbian, gay, bisexual, transgender and intersex persons had decreased since 2016. Two officials of the National Civil Police who had assaulted a transgender man in June 2015 had been sentenced to 4 years' imprisonment, although an appeal had been lodged; two more had been sentenced to 3 years' imprisonment, but had subsequently been allowed to carry out alternative sentences.

42. Since 2015, the National Civil Police and other institutions involved in the conduct of elections had been following a procedure elaborated by the national electoral authorities to tackle discrimination against lesbian, gay, bisexual, transgender and intersex persons during elections. Discrimination in relation to gender designation on national identity documents remained a challenge, but it was hoped that the situation would improve through

legislatorial reform to eliminate discriminatory practices in the State's activities. In late 2017, the Ministry of Justice and Public Security had established a general policy on the protection of lesbian, gay, bisexual, transgender and intersex persons. Developed in collaboration with other Government agencies and civil society organizations, the policy was focused on six priority areas — prevention, care, protection, intersectoral coordination, knowledge management and accountability — and specifically provided for protection of lesbian, gay, bisexual, transgender and intersex persons who worked in public institutions and who used the services that those institutions provided. For the Ministry of Justice and Public Security, that meant protecting lesbian, gay, bisexual, transgender and intersex persons affected by the work of the National Civil Police and the National Public Security Academy and those deprived of liberty, as well as lesbian, gay, bisexual, transgender and intersex migrants.

43. Responding to questions put by Mr. de Frouville and Mr. Heyns, he said that all human rights violations committed by officials of the National Civil Police led to two parallel, independent sets of proceedings: one set disciplinary, the other criminal. In criminal matters, officials of the National Civil Police were subject to ordinary legislation. In 2014, the Inspectorate-General of Public Security had been transformed from an internal monitoring mechanism into an external body responsible for overseeing the work of the National Civil Police and the National Public Security Academy. In a similar vein, police disciplinary tribunals had been overhauled; they were no longer composed of officials of the National Civil Police, but rather by external legal professionals.

44. Updated guidelines on the use of force and firearms had been issued for the National Civil Police. In addition, the Ministry of Justice and Public Security participated in round-table discussions with civil society organizations working in the field of human rights; those discussions had resulted in a campaign to raise the public's awareness of the rules regulating the use of force to facilitate the identification and reporting of abuses. The decisions referred to in paragraphs 107 and 108 of the State party's report related to cases that had been opened by the Office of the Human Rights Advocate, but not all those cases had led to convictions or condemnations. By way of updated information, in 2017, there had been 1,483 reports of abuse by the National Civil Police, of which 834 pertained to alleged human rights violations. Of those 834, 62 complaints related to alleged cruel, inhuman and degrading treatment and 5 related to alleged acts of torture. Officials of the National Civil Police had been dismissed from service in one case relating to acts of torture and five cases relating to cruel, inhuman and degrading treatment. Three criminal cases had been opened, of which one had led to the conviction of four officials of the National Civil Police, who had been sentenced to 9 years' imprisonment on the charge of torturing an adolescent. Investigations into one of the other cases were still in the early stages, while judicial proceedings had begun in the other.

45. Turning to the questions put by Mr. Santos Pais, he said that the President had the power to deploy the Salvadoran armed forces to maintain public order, subject to the criteria of exceptionality, subsidiarity, temporality and strict necessity. Since 1994, the armed forces had played a supporting role in ensuring public security alongside the National Civil Police. In fact, the armed forces and the National Civil Police worked together in special groups made up of officials from both entities, with the responsibility for the group's actions falling to the highest ranking National Civil Police officer. To ensure that the support they provided complied with the Salvadoran legal and constitutional human rights framework, all staff of the armed forces were given training in human rights and in the use of force and firearms.

46. By and large, the offences of which members of the Armed Forces had been convicted were common offences. The armed forces had a procedure for dealing with such cases. However, three cases of detention by members of the armed forces had been investigated to establish whether enforced disappearances had taken place. In the oldest case, which related to an incident that had taken place in the west of the country, the Court had acquitted members of the armed forces who had participated in the detention of two young men. However, the Public Legal Service had appealed that ruling, and the case remained pending. Another case, which related to an incident that had taken place close to San Salvador, remained at the initial investigation stage. In a third case, eight members of

the armed forces had been convicted. That case had given rise to a further case involving an attempted cover-up by higher-ranking officials.

47. With regard to the Special Act on Trafficking in Persons, the relevant regulations had already entered into force, and the corresponding inter-agency protocol had been approved. The National Council on Trafficking in Persons was working to update the national policy plan and national operating plan. El Salvador had signed bilateral agreements on human trafficking with other countries in the region. There had been 44 cases of trafficking in persons in 2015, 52 in 2016 and 45 in 2017, and those cases had involved 35, 47 and 72 victims, respectively. Guilty verdicts had been rendered in 19 cases in 2015, 2 in 2016 and 3 in 2017.

48. **Mr. Robles Ticas** (El Salvador) said that the National Strategic Multisectoral Plan to Combat HIV/AIDS and Sexually Transmitted Infections served as a model for Latin America as a whole. In El Salvador, all appropriate antiretroviral drugs were available, there was no waiting list for treatment, and the vertical transmission of HIV would soon be eliminated. Indeed, only five cases had been reported in 2017. In the period 1984–2007, 35,594 persons had tested positive for HIV. Of those, 74 per cent had been women. Since 2017, the number of new cases of HIV had been halved from six a day to only three.

49. The HIV Infection Prevention and Control Act, which had entered into force in January 2017, was a human-rights-based law in contrast to the original law of the same title, which had been adopted in October 2001. There was an inter-agency strategy to coordinate its implementation across different sectors. The National AIDS Commission had been replaced by a new body.

50. El Salvador had developed the National Strategic Multisectoral Plan to Combat HIV/AIDS and Sexually Transmitted Infections for the period 2016–2021. The Plan would contribute to the achievement of the Sustainable Development Goals and accelerate the achievement of the 90-90-90 treatment target. The plan marked a new stage for El Salvador in which past achievements would be consolidated and scaled up in order to facilitate the early identification of new cases of HIV and expand access to antiretroviral therapy. The objectives of the plan were to forge alliances between the public sector, the private sector and civil society with the aim of making innovative and comprehensive health-care services available to key groups and to ensure the effective management of resources.

51. Persons living with HIV received treatment in all health-care facilities, including the 15 sentinel surveillance centres for groups at high risk of sexually transmitted infections. The new HIV Infection Prevention and Control Act would support the implementation of the National Strategic Multisectoral Plan.

52. The issue of termination of pregnancy continued to present a number of challenges in El Salvador. The executive branch, supported by a parliamentary group and with the approval of the Ministry of Health and a number of medical associations, had submitted a bill that sought to decriminalize voluntary termination of pregnancy in four specific circumstances, including pregnancies resulting from rape and those that posed a risk to the mother's life. However, its adoption had been hindered by the judicial and legislative branches. Although women suspected of having voluntarily terminated a pregnancy had at one time been reported to the authorities, medical practice had changed considerably in recent years. Indeed, respect for medical secrecy was such that, in the majority of cases, such women were not reported, and no action was taken against them. In 2017, over 7,000 miscarriages had been diagnosed and treated by health-care professionals, and 22 of those had resulted in death due to severe infection. There was a broad consensus among health-care professionals that, in the four specific circumstances identified by the executive branch, the voluntary termination of pregnancy should not constitute a criminal offence.

53. **Ms. Argueta Martínez** (El Salvador) said that violence against women was a serious problem in El Salvador. The Government had taken various measures to prevent and punish gender-based violence and to support women who had experienced violence as part of a strategy adopted in line with the Special Act on a Violence-Free Life for Women. The country's overarching aim in that regard was to empower women.

54. Efforts had been made to address violence against women in both the public and private spheres and to address different forms of violence, including economic and political violence. Progress had been made in targeting categories of perpetrator that had previously escaped attention. The country had a robust legislative framework in place to process cases of violence against women, and various new offences had been established. Specialized training had been introduced for officials involved in combating violence against women.

55. The Safe El Salvador Plan provided for specific measures to address violence against women. In that context, the national support system, which included 88 specialized units, offered three levels of support, which focused on initial access, legal assistance and empowerment, respectively. In close cooperation with the Crime Observatory of Peru, a pilot project was being developed to improve the collection of data on femicide.

56. Under Decree No. 286, the aim of which was to improve access to justice for victims of crimes against women and to combat impunity, three special investigating courts and three special sentencing courts had been set up around the country, and a special appeals court had been set up in San Salvador. The courts received assistance from a dedicated technical team, and efforts were being made to improve inter-agency cooperation in that connection. The Supreme Court of Justice and the Salvadoran Institute for the Advancement of Women both participated in the selection of judges.

57. The Attorney General's Office was formulating a policy of prosecuting cases of violence against women under criminal law and, with the support of the United Nations, was updating the Protocol for Investigating Femicide. Crimes involving sexual violence were among those most frequently reported to the Attorney General's Office. Some health-care facilities offered specialized care for victims of sexual violence.

58. Reconciliation was provided for under the Domestic Violence Act, but there were plans to amend the legislative framework with a view to eliminating provisions of that kind. Efforts were being made to strengthen women's participation in civil society and decision-making. Currently, around 20,000 women were involved in civil society at the national level. Although the results of the recent elections of deputies and mayors were not yet known, it was likely that they would lead to an increase in the representation of women. Women remained underrepresented in the executive branch, but a campaign entitled "More women, more equality" had recently been launched to increase their representation. Measures had also been taken to address political violence and, in particular, to encourage political parties to stamp out such violence.

59. **Ms. Guillén** (El Salvador) said that, that very day, Maira Verónica Figueroa Marroquín, a woman who had been convicted after having had a miscarriage, had been released from prison after the Supreme Court had commuted her 30-year sentence to a 15-year sentence. A number of similar cases were currently pending.

60. **Ms. Fernández Flores** (El Salvador) said that around 137,000 workers, some 42 per cent of whom were women, had benefited from the recent increase in the minimum wage. In the maquila sector, average monthly wages had increased from US$ 211 to US$ 299. The gender pay gap across the workforce as a whole had fallen since 2009 but remained at 17 per cent. Its persistence was due largely to the nature of the sectors in which women tended to work. Various actors, including the National Commission on Micro-Enterprises and Small Businesses and the Ministry of Agriculture and Livestock, had been involved in applying a series of measures to promote the participation of women in economic life. In October 2017, the Ministry of Labour and Social Security, the Salvadoran Institute for the Advancement of Women and the Ministry of Economic Affairs had signed a letter of understanding on the development of a procedure for certifying companies as equal.

61. On 29 February 2018, the Legislative Assembly had approved amendments to the Labour Code aimed at eliminating discriminatory practices against women in the workplace. The amendments had strengthened the pre-existing legislative framework, which included the Special Act on a Violence-Free Life for Women and the Act on Equality, Equity and Elimination of Discrimination against Women. Various steps had been taken in preparation for ratification of the ILO Domestic Workers Convention, 2011 (No. 189). To that end, the Ministry of Labour and Social Security had set up a dedicated inter-agency committee in 2015 to lead a process of analysis and consultation involving public bodies and civil society

organizations. It had the support the ILO country office in El Salvador. The relevant bill was currently under review in the Legislative Assembly. The Ministry of Labour and Social Security had granted legal status to two trade unions of female domestic workers.

62. **Ms. Rosa** (El Salvador) said that the bill on migration, a human-rights-based text, was currently under consideration. The Directorate General for Migration had submitted the bill to the plenary of the legislature in 2017. It had undergone a thorough technical review with the support of the International Organization for Migration and the United Nations High Commissioner for Refugees. The bill consisted of 433 articles, and 80 per cent of the text had so far been discussed.

63. The bill sought to establish rights and guarantees for migrants, including the right to personal integrity, the right to access the Family Status Register, the right to be treated individually in migration procedures, the right to non-discrimination, the right to due process and the right to be informed of any offences on the basis of which migration procedures have been instituted. In 2017, the Ministry of Labour and Social Security and the Directorate General for Migration had signed an agreement to develop technical and administrative solutions to facilitate the proper functioning of activities relating to the issuance of residence permits. One of the outcomes of its work had been an inter-agency protocol on the issuance to migrants of temporary residence permits granting the right to work.

The meeting rose at 6 p.m.

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Summary record of the 3457th meeting
Held at the Palais Wilson, Geneva, on Wednesday, 14 March 2018, at 10 a.m.

Chair: Mr. Iwasawa

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The meeting was called to order at 10.05 a.m.

Consideration of reports submitted by States parties under article 40 of the Covenant (*continued*)

Seventh periodic report of El Salvador (*continued*) (CCPR/C/SLV/7; CCPR/C/SLV/QPR/7)

1. *At the invitation of the Chair, the delegation of El Salvador took places at the Committee table.*

2. **The Chair** invited the delegation to continue replying to the questions raised by Committee members at the previous meeting.

3. **Ms. Martínez** (El Salvador) said that since the General Amnesty Act had been declared unconstitutional, steps had been taken to investigate and provide reparation for the serious human rights violations that had occurred during the internal armed conflict. The Attorney General's Office had established a special unit, comprising a coordinator and three prosecutors, to investigate such cases. The unit had its own budget and workplan and was supported by the Office of the United Nations High Commissioner for Human Rights (OHCHR) Regional Office for Central America.

4. A total of 139 cases of violations were under investigation, including a number of cases that had been reopened following the ruling on the unconstitutionality of the General Amnesty Act. Reparation had been provided to the victims of the massacre of El Mozote, pursuant to the relevant judgment of the Inter-American Court of Human Rights. The Government had gone beyond the requirements of that judgment by adopting a gender-sensitive approach to reparation and producing a video and a book to commemorate the women victims of the massacre.

5. The reparations programme for victims of violations that had occurred during the internal armed conflict included rehabilitation, compensation and guarantees of non-repetition. Regarding the national commission that had been set up in 2010 to trace children who had been subjected to enforced disappearance during the conflict, as at December 2017, a total of 307 cases had been registered, of which 236 had been investigated and 89 had been resolved; 33 children had been reunited with their families and 30 investigations had provided confirmation of death. In 2017, the national commission responsible for tracing adults who had disappeared during the conflict had been established and its members appointed, with the participation of civil society.

6. The budget of the Office of the Human Rights Advocate had been cut because of a decrease in tax revenue. The alleged theft of computers from the Office had been investigated and an individual would be arrested and possibly charged in relation thereto in the near future. The President had ordered the implementation of the measures recommended by the Inter-American Court of Human Rights in that regard.

7. Data on indigenous persons and persons of African descent would be gathered in the 2020 population census and used to draw up policies to support those groups.

8. **Ms. Guillén** (El Salvador) said that legislation on issues relating to women, children and trafficking had been brought into line with the Covenant. The provisions of the Covenant were increasingly being invoked by lawyers and judges. Human rights training was provided to members of the Attorney General's Office, the National Council of the Judiciary, the Office of the Human Rights Advocate, the National Civil Police and the armed forces. Steps were being taken to involve civil society in the treaty body reporting process and to review the situation with respect to instruments that had not yet been ratified by El Salvador, such as the International Convention for the Protection of All Persons from Enforced Disappearance.

9. **Mr. Shany** said that the Committee's questions regarding involuntary placement in psychiatric hospitals and the budget for the implementation of the National Policy on Trafficking in Persons had not been answered.

10. He would furthermore welcome disaggregated data on the number of persons in pretrial detention, as well as information on the time limits that were applicable to pretrial

detention, including detention based on an arrest warrant and detention authorized by the judicial authorities, and the impact of the Counter-Terrorism Act on those time limits. In the light of reports that the time limit of 72 hours for initial detention was not always respected, he wondered whether the State party could confirm those reports and whether it would consider reducing the time limit for initial detention to 48 hours. In 2013, the Working Group on Arbitrary Detention had reported that 970 detainees had been held for longer than the maximum period permitted by law. He would like to know whether that figure was accurate and if so, what measures had been taken to address the problem.

11. It would be useful to know what steps were being taken to reduce the number of pretrial detainees, who accounted for over 30 per cent of persons deprived of their liberty, and why police jails continued to be so widely used, despite criticism from the Constitutional Chamber of the Supreme Court. It would also be interesting to learn what steps were being taken to reduce overcrowding of detention facilities, to ensure the separation of accused and convicted detainees and to protect minors in pretrial detention, and whether the State party agreed that overcrowding was exacerbated by the tendency of judges and prosecutors to recharacterize offences as terrorist offences in order to limit bail options.

12. It was unclear whether the time frames for detention in the Centre for the Comprehensive Care of Migrants were applicable to all migrants, including asylum seekers, and what specific stage had been reached in the adoption of the bill on migration and aliens. Concerns had been raised as to whether the Centre, which had been designed to hold irregular migrants prior to their expulsion, was a suitable facility for the accommodation of asylum seekers. He would like to know whether asylum seekers and irregular migrants were held together at the Centre; what action had been taken in response to the advisory opinion of the Inter-American Court of Human Rights on the rights of children in the context of migration; what judicial safeguards were available to persons in immigration detention; and whether the need to detain such persons could be reviewed proprio motu.

13. Noting that article 38 of the Child and Adolescent Protection Act and article 215 of the Family Code could be interpreted as permitting corporal punishment, he said that he wished to know whether the State party would consider reviewing the compatibility of those articles with its international obligations.

14. The Committee was concerned by the prevalence of sexual and marital relations between adolescent girls and older men and would like to know whether the State party had considered establishing an age of consent for sexual intercourse.

15. Lastly, it would be useful if the State party could provide updated statistics on child migrants to supplement those provided in paragraphs 227 and 228 of its report; clarification as to whether support was provided only to Salvadoran child migrants or also to non-Salvadoran child migrants travelling through El Salvador; information on measures taken in response to the recent changes in the immigration policy of the United States of America; and details of any cooperation with the United States authorities to protect Salvadoran child migrants in the United States from abuse and exploitation.

16. **Mr. Ben Achour** said that the Committee had received reports that lawyers, especially women lawyers, who visited detainees were subjected to intrusive and humiliating searches when entering or leaving detention centres. He would like to know what steps would be taken to address the problem and how complaints about such incidents could be filed.

17. It would be useful to know what stage had been reached in the construction of the new juvenile detention centre, mentioned in paragraph 149 of the State party's report. The Committee was concerned about prison overcrowding, which had reached 346 per cent in 2016, and the conditions of detention in prisons, which remained extremely poor despite the State party's efforts to improve them.

18. Suicide and murder rates inside prisons were soaring, and prisoners were often involved in arms and drugs trafficking, sometimes with the connivance of prison staff. Those problems had been recognized by the Constitutional Chamber of the Supreme Court and by the Legislative Assembly which, in April 2016, had unanimously approved a raft of

security measures to crack down on gang-related activities inside prisons. In that context, he wished to know if the Government was considering any short- or long-term policies to improve conditions inside places of deprivation of liberty. He was concerned that the wording of articles 345 and 348 of the Criminal Code and of the Counter-Terrorism Act might give rise to overly broad interpretations on the part of the administrative authorities and the judiciary and open the way to violations of articles 19 and 21 of the Covenant.

19. **Mr. de Frouville** said that he would appreciate more details about women who had been imprisoned for abortion, including their number and social background and the specific charges brought against them. He would also like to know whether any action had been taken on the Committee's 2010 recommendations to suspend the prosecution of women for the offence of abortion and to open a national dialogue on the rights of women to sexual and reproductive health.

20. He wished to know if there were any plans to introduce legislation to codify a 2014 Supreme Court ruling, which had laid the foundations for the National Council of the Judiciary to select candidates for the office of judge of the Supreme Court in a transparent, documented and reasoned manner. He hoped the delegation could provide more information about how the Judicial Investigation Department of the Supreme Court was formed and how it pursued disciplinary proceedings against judicial officials. Would it not be more appropriate for such a body to be entirely independent? His concerns regarding that Department's independence were shared by the Special Rapporteur on the independence of judges and lawyers, who had, moreover, drawn attention to the fact that disciplinary proceedings against judges and magistrates were not fully in compliance with the Basic Principles on the Independence of the Judiciary.

21. Although the State party had taken serious steps towards eliminating child labour, the goal of eradicating the worst forms of child labour by 2015 had not been achieved. In fact, in 2016, the Special Rapporteur on contemporary forms of slavery had noted that the worst forms of child labour persisted in several contexts, including street begging, fisheries, domestic work and agriculture. In that context, he wished to know if a new deadline had been set. It would also be useful to know what measures were being taken to eliminate all forms of child labour by 2020 and which State institutions were involved in those efforts. He wished to commend the State party for having responded to a recommendation made by the Committee on the Rights of the Child by drawing up a list of dangerous activities in which young persons could not engage. He hoped the delegation could explain how that provision was being implemented and provide a written copy of the list. He wished to know if there were any plans to improve the system of birth registration, which the authorities had acknowledged was far from perfect, and to extend it to the entire national territory. Did those plans include the removal of registration costs and of fines for non-registration?

22. Mechanisms guaranteeing the prior, free and informed consent of indigenous peoples on measures that affected them should be extended to the national level. He understood that some indigenous families had been granted property deeds on the basis of existing laws and wished to know if the State had plans to introduce specific legislation recognizing the collective property rights of indigenous peoples. Were measures envisaged to facilitate the access of indigenous peoples to decision-making positions, not only regarding issues affecting them as a community, but also at the national level?

23. **Ms. Cleveland** said that she would like to know whether provisions to tackle hate crimes contained in articles 129 and 155 of the Criminal Code had ever been used to prosecute offenders and, if so, with what result. She would further like to know whether there were special measures in place to protect lesbian, gay, bisexual, transgender and intersex persons, who were often the victims of such crimes. She wished to commend the State party on the steps it had taken to reduce maternal mortality but she would appreciate more detailed information about the causes of the phenomenon and about the number of cases in which it was due to unsafe abortions. According to civil society organizations, as many as 57 per cent of women who committed suicide were pregnant, a concern that had recently been echoed by the Special Rapporteur on extrajudicial, summary or arbitrary executions. Information about any measures being taken in that regard would be appreciated. The Committee would also welcome information on proposed amendments to

legislation on refugee status and international protection, specifically, when they were due to be approved and to what extent they conformed to international standards.

24. In 2015, El Salvador had had the highest murder rate in the world and, although significant and successful efforts had been made to reduce it, the Committee remained concerned about the level of violence in the country, particularly gang-related violence, and its effect on the civilian population. She recognized that the Safe El Salvador Plan had helped to combat gang violence, and she would be interested to know if it also envisaged "soft" measures such as rehabilitation programmes, plans to combat youth unemployment and investment in public parks and sports facilities.

25. Although the law banning *maras* was rarely applied, with prosecutors preferring to use general criminal legislation, the Committee was concerned that it might nonetheless have a stigmatizing effect on gang members and impact negatively on due process and other fundamental rights. Information about the safeguards in place to prevent that from happening would be appreciated, as would the delegation's comments on the recent claim by the Special Rapporteur on extrajudicial, summary or arbitrary executions that the police's operating culture and its lack of resources placed significant limits on its capacity to deal with gang-related crimes. She would be interested to hear more about the measures contained in the Safe El Salvador Plan to protect persons who risked or had suffered internal displacement as a result of violence and about any plans to create a national register of internally displaced persons.

26. It was important that society should be made aware of the State's obligations under the Covenant and of the recommendations emerging from its dialogue with the Committee, particularly those designated for follow-up. In that regard, she wished to know more about the mechanisms for making periodic reports submitted to United Nations treaty bodies more widely known among the public, particularly in rural areas and among indigenous and minority communities. She would also appreciate further details about plans to adopt a procedure for the effective participation of civil society in the preparation of reports.

27. **Mr. Santos Pais** said that various international organizations considered Central America to be one of the most dangerous areas in the world for human rights defenders. According to information available to the Committee, El Salvador did not recognize the right of individuals or organizations to defend human or environmental rights, meaning that persons and groups who did so often faced harassment, intimidation and threats. In that context, he wished to know if there were any plans to introduce legislation to protect human rights defenders, in line with the Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms. It would be appreciated if the delegation could provide more details about a recent amendment to article 30 of the Criminal Code, which allegedly recognized an aggravating circumstance if a crime was "motivated by the victim's work in the promotion and protection of human rights".

28. He was concerned that the 2006 Counter-Terrorism Act might be used to criminalize social protest in defence of human rights. That concern also applied to articles 331 and 348 of the Criminal Code, which provided that persons charged with public order offences had to be held in provisional detention and which envisaged no alternative to such detention. He therefore wondered whether there were any plans to amend the Criminal Code and the Counter-Terrorism Act. He would be interested to know how many complaints of human rights violations had been lodged over the previous three years by human rights defenders, journalists, environmentalists and civil society organizations, and how many had been investigated and successfully prosecuted by the Office of the Attorney General. Statistics on the number of human rights defenders who had lost their lives between 2015 and 2017 would also be appreciated.

29. He would be grateful if the delegation could provide statistics, disaggregated by gender, on the numbers of minors in conflict with the law currently being held in the country's four Social Inclusion Centres; moreover, he would like to know whether those Centres were monitored by an independent body. He would also be interested to know how many adolescents held there had been served by the framework programme for juvenile offenders run by the Salvadoran Institute for Comprehensive Child and Adolescent

Development. Were minors in conflict with the law also held in regular prisons and, if so, were they kept separate from adult inmates? Did they benefit from the same framework programme as those held in the Social Inclusion Centres? The Committee would like to know if the Government had any policies to combat violence and delinquency among young people, particularly in the context of gang activities, and whether such policies contemplated alternatives to the institutionalization of offenders. It would be useful to know how many children had died in detention over the course of the previous five years.

The meeting was suspended at 11.20 a.m. and resumed at 11.45 a.m.

30. **Mr. Ramírez Landaverde** (El Salvador) said that the work of the various institutions involved in implementing the National Policy on Trafficking in Persons, including the specialized units of the Public Legal Service, was covered by the regular budgets of those institutions rather than by a separate budget allocation. That said, for the past two years, specific funding of around US$ 1 million had been allocated for the provision of comprehensive victim support, one of the core components of the Policy. It was hoped that the bill on migration, which was at the final stage of reading in the Legislative Assembly, would be adopted shortly. Regarding the offence of abortion, it was difficult to ascertain how many women had been convicted and imprisoned for that offence, since, in some cases, they had been indicted for aggravated homicide. However, the Ministry of Justice and Public Security was currently considering applications to commute sentences in eight cases. Of those, four had been sent to the Supreme Court of Justice for a decision, while the remaining four were being examined by the Criminological Council. So far, two cases had been favourably resolved, with the release of Teodora del Carmen Vásquez, in February 2018, and Maira Verónica Figueroa Marroquín, who had been freed only the previous day.

31. The maximum period allowed for administrative detention was 72 hours, without exception; in fact, exceeding that time period would constitute illegal detention and render the entire proceeding void. There were no immediate plans to reduce the maximum period of administrative detention from 72 hours to 48 hours. According to the latest data, there were just over 39,000 persons in places of deprivation of liberty, of which some 12,000 persons were being held in pretrial detention. A number of measures were being taken to reduce reliance on pretrial detention, including the establishment of an electronic tagging system, which had been launched in 2017 at a cost of US$ 4.5 million. During the first phase, around 2,800 electronic bracelets had been made available to the courts for prison supervision to allow for the conditional release of detained persons. The ultimate aim was to roll out the project to all municipal and examining magistrates in order to foster the use of electronic tagging as an alternative to pretrial detention and to imprisonment in certain cases, thus helping to reduce prison overcrowding.

32. Significant progress had been made to establish non-intrusive controls and checks for persons, including lawyers and public defenders, when entering and leaving detention centres. For example, 17 full-body scanners had been acquired, at a cost of US$ 3.5 million; 15 of them had already been installed in the country's main prisons. Entry procedures and protocols were being drawn up, taking into account the views and recommendations of various lawyers' associations, the Public Legal Service and the Attorney General's Office, to prevent the use of intrusive frisk searches. Technology would, instead, be the preferred means of searching and monitoring all persons, objects and packages entering places of deprivation of liberty. Those measures had been accompanied by a purge of prison security staff, a number of whom had been dismissed for disciplinary reasons, and the recruitment of 600 newly trained prison security officers, 24 per cent of whom were women. The goal was to ensure that only women security personnel conducted searches of women. While there had been no recorded complaints from public defenders or other persons alleging improper checks in respect of their documentation, any complaints in that regard would be promptly addressed.

33. In the light of the 2016 decision of the Constitutional Chamber of the Supreme Court, which had found the conditions of overcrowding in prisons to be unconstitutional, the Government had made reducing overcrowding a priority and had invested US$ 58 million to that end. Plans to improve prison conditions and increase capacity had come to fruition in 2017. Five major prison infrastructure projects had been completed, creating

more than 8,000 extra places and reducing the rate of prison overcrowding from 373 per cent to 210 per cent. The momentum was set to continue in 2018 with the completion of four further projects — including one at the country's largest prison, La Esperanza — creating a further 19,000 new places and reducing the rate of overcrowding to a projected 154 per cent. That would represent a major achievement, since, for the first time in decades, the overcrowding rate in El Salvador would fall below the regional average of 159 per cent. Low-security places of detention for persons convicted of less serious crimes were also being built, enabling detainees who did not pose a threat to society to be transferred from medium- and high-security prisons, thus further reducing overcrowding. Other measures included offering convicted prisoners the chance to commute their sentences through work in the community. Concerted efforts had also been made to reduce corruption and illegal items in prisons. For example, in 2016, more than 1,700 mobile phones had been seized, whereas, in 2017, the number had been fewer than 200.

34. The Government had adopted a new approach to tackling the problem of violence in El Salvador. It had, for example, held extensive consultations with civil society, on the basis of which it had established the National Council for Citizen Security and Coexistence and created the Safe El Salvador Plan. Under that Plan, the repressive approach long favoured by successive governments had been replaced with a more comprehensive vision comprising not only measures of control and repression but also initiatives relating to prevention, rehabilitation and victim support. The Plan included measures to improve the education system and to introduce prevention programmes. Indeed, over the past two years, more than 20,000 young persons, many of whom had left school owing to violence, had returned to school. Other related activities included supporting entrepreneurship among young people and vulnerable groups through seed capital and training.

35. Lastly, the results of a study on internally displaced persons, undertaken with the support of the United Nations High Commissioner for Refugees and the participation of government agencies and academic institutions, including the Latin American Faculty of Social Science, had helped to identify the causes of internal displacement, highlight the areas and populations affected and make relevant recommendations. On that basis, the Government had been able to devise appropriate actions and strategies.

36. **Mr. Robles Ticas** (El Salvador) said that, with the support of the regional government of the Basque Country in Spain, the country had dispensed with outdated approaches to mental health care. Instead of having a single psychiatric hospital, there were now 16 hospitals with mental health units, not to mention primary care centres and outpatient clinics equipped to treat patients with mental health conditions. The overriding objective was to provide appropriate treatment to speed recovery and enable patients to return home as quickly as possible. Crisis care units had also been established to prevent prolonged stays in hospital.

37. The primary causes of maternal mortality in El Salvador were hypertensive disorders associated with pregnancy, sepsis and certain chronic illnesses. The suicide rate among pregnant women had been reduced significantly from around five such deaths a year to just one.

38. Referring to paragraph 211 of his country's report, he said that the Child and Adolescent Protection Act provided for special protection for child and adolescent workers and the elimination of child labour. A survey had revealed that, in 2016, around 130,000 children and adolescents aged between 5 and 17 years old were in child labour; a large proportion of them lived in rural areas. The Government remained committed to eradicating child labour and had taken numerous steps to eliminate the practice, including the establishment of a road map, the development of a ministerial agreement and the adoption of an inter-agency protocol. The Legislative Assembly had also discussed the possible ratification of the International Labour Organization (ILO) Domestic Workers Convention, 2011 (No. 189), with a view to preventing child domestic labour.

39. Efforts had been made to promote alternative sentences for adolescents in conflict with the law. Some 13,000 young persons between 12 and 18 years of age had appeared before the juvenile criminal courts between 2012 and 2016; nearly 30 per cent had received alternative sentences. In September 2017, the Legislative Assembly had taken steps to

strengthen the juvenile justice system and bolster the protection afforded to young persons. Numerous programmes and support centres had also been set up to facilitate the reinsertion of young offenders into society upon their release. Staff working at the support centres received comprehensive human rights and child protection training.

40. **Ms. Argueta Martínez** (El Salvador) said that the Government had launched several national programmes to identify vulnerable girls and prevent their recruitment by gangs. Efforts had also been made to provide comprehensive sexual and reproductive health education, reduce the rate of early pregnancy and address sexual violence among adolescents.

41. **Ms. Rosa** (El Salvador) said that the Government took a human rights approach to migration and had set up a dedicated support centre for migrants and asylum seekers arriving in the country. It had also worked in close cooperation with the International Organization for Migration and the Office of the United Nations High Commissioner for Refugees to develop appropriate legislation aimed at upholding the rights of those groups and limiting the time they spent in arrival processing facilities.

42. An interdisciplinary working group had been established to tackle the root causes of the emigration of Salvadoran citizens and several national awareness-raising campaigns had been launched to alert the general public, particularly children, to the dangers posed by irregular migration and human trafficking networks. One of the main pull factors, however, was the desire for reunification with other family members, many of whom had migrated to the United States of America. A national programme had therefore been launched to promote the orderly return of Salvadoran nationals living abroad and facilitate their reintegration into family and community life.

43. Pursuant to the advisory opinion of the Inter-American Court of Human Rights on the rights of children in the context of migration, special attention had been paid to the situation of accompanied and unaccompanied child migrants, notably since the migration crisis of 2014. In that context, it was important to note that national child protection and welfare regulations applied to all children, regardless of their nationality.

44. Despite the fact that El Salvador received a relatively low number of asylum seekers, persons seeking asylum had access to a wide variety of services to help them integrate successfully into society. Appropriate measures had also been taken to provide assistance to migrants transiting through the country.

45. Registration and data-collection systems had been introduced to track and analyse migration trends. In recent years, there had been a significant decrease in irregular migration — a hugely positive trend.

46. **Ms. Guillén** (El Salvador) said that efforts had been made to refine the appointment process for judges. The Legislative Assembly was responsible for reviewing the shortlist submitted to it by the Salvadoran Federation of Bar Associations and the National Council of the Judiciary and deciding which candidate to appoint. It took account of the views of civil society during its deliberations and documented its selection process in a clear and transparent manner. As for performance evaluation, the Judicial Investigation Department of the Supreme Court was in charge of investigating complaints against judges and magistrates and instigating disciplinary procedures where applicable.

47. In regard to questions regarding the definition of terrorism and the proportionality of measures aimed at combating the phenomenon, it should be noted that the Special Anti-Terrorism Act had been subject to judicial review by the Constitutional Chamber in August 2015. A subsequent ruling by the Constitutional Court on a case brought under the Act had clearly defined what constituted a terrorist group or terrorist offence.

48. Pursuant to Human Rights Council resolution 31/32 on protecting human rights defenders addressing economic, social and cultural rights, the Government placed no restrictions on the work of human rights defenders and had amended article 30 of the Criminal Code to make attacks on such persons an aggravating circumstance. It had also established specific protection measures for human rights defenders under the Special Act on the Protection of Victims and Witnesses. The Government remained committed to engaging with civil society, including human rights defenders, and would seek their views

on all aspects of the implementation of the Covenant and the concluding observations of the Committee.

49. **Ms. Cleveland** asked whether the State party intended to put an end to the application of extraordinary measures in prisons. She said she also wished to know whether it would take effective action to prevent, investigate and punish human rights abuses and violations committed by law enforcement officials and repeal article 350 of the Code of Criminal Procedure that provided for the Justice of the Peace to dismiss charges of misconduct and violence against police and military officers.

50. **Mr. Shany** said that he would like clarification regarding the time limit for pretrial detention. He also wished to know more about the rights of appeal of persons with psychosocial and intellectual disabilities detained in the national psychiatric hospital. Lastly, he requested further information about the practice of forced sterilization of persons with disabilities deprived of their legal capacity, including clarification of the role played by their legal representatives and data on the number of cases reported each year.

51. **Mr. de Frouville** said that he would appreciate an answer to his questions concerning the number of women tried, convicted and imprisoned for the offence of abortion; the appointment process for judges and the composition of the body responsible for approving nominations; the mechanisms in place to obtain the prior, free and informed consent of indigenous peoples for legislative or administrative measures affecting their communities; and the steps taken to ensure the registration of all births in the country.

52. **Mr. Ramírez Landaverde** (El Salvador) said that additional security checks for visitors and other extraordinary measures had been introduced to improve security and eliminate criminality within the prison system. The Government had adopted the measures as a response to the emergence of a network of persons posing as lawyers who had been passing messages between prisoners and criminal gangs. The measures were reviewed regularly and placed no restrictions on the rights of detainees to counsel and medical services. The option of confining prisoners to their cells for 24 hours had not yet been applied.

53. The Code of Criminal Procedure set a 24-month limit for pretrial detention, after which time the individual concerned must be released immediately. Persons found guilty of crimes under the Special Anti-Terrorism Act were not eligible for alternative sentences. The Justice of the Peace had the ability to dismiss charges against police officers and military agents serving public security functions if there was sufficient proof that the officer in question had acted in self-defence or in the fulfilment of his or her legal duty. The police officer or military agent involved must send a report to the Justice of Peace who would consider the report in conjunction with other evidence.

54. **Ms. Guillén** (El Salvador) said that her delegation had taken note of the Committee's questions and recommendations and would endeavour to submit any outstanding replies within 48 hours.

55. **The Chair** thanked the delegation for its willingness to engage in a constructive dialogue with the Committee and for its candid replies to the questions posed by Committee members.

The meeting rose at 1 p.m.

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Held at the Palais Wilson, Geneva, on Wednesday, 14 March 2017, at 3 p.m.

Chair: Mr. Iwasawa

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Seventh periodic report of Norway

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The meeting was called to order at 3 p.m.

Consideration of reports submitted by States parties under article 40 of the Covenant (*continued*)

Seventh periodic report of Norway (CCPR/C/NOR/7; CCPR/C/NOR/QPR/7)

1. *At the invitation of the Chair, the delegation of Norway took places at the Committee table.*

2. **Mr. Rotevatn** (Norway), introducing his country's seventh periodic report (CCPR/C/NOR/7), said that the framework for the protection of human rights in Norway had been strengthened considerably in recent years. In 2014, a new human rights catalogue had been incorporated into the Constitution. It established a number of fundamental rights, including most of those enshrined in the Covenant. The new provisions were intended to be interpreted in the light of the international human rights instruments that had inspired them. They enjoyed the highest possible status in the hierarchy of norms.

3. In July 2015, a new national human rights institution had been established. It operated in full compliance with the principles relating to the status of national institutions for the promotion and protection of human rights (Paris Principles) and had been awarded an "A" status accreditation. In January 2017, the Gáldu Resource Centre for the Rights of Indigenous Peoples, which monitored the protection of Sami rights, had been integrated into the national human rights institution. Since its establishment, the national human rights institution had submitted two annual reports to the Storting (parliament).

4. In June 2017, the Storting had adopted a new, comprehensive Equality and Anti-Discrimination Act, which prohibited discrimination on the grounds of, inter alia, gender, ethnicity, religion or belief, disability, sexual orientation or gender identity, and age. In addition, it prohibited discrimination on the basis of any combination of those individually prohibited grounds. The Equality and Anti-Discrimination Tribunal monitored the enforcement of the Act and had the power to impose fines and to award compensation in cases relating to discrimination in the workplace. The Equality and Anti-Discrimination Ombudsman would no longer handle complaints, but would instead act as a proactive agent for equal opportunities.

5. In 2017, the Mental Health Care Act had been amended to establish that patients who had the capacity to consent could no longer be treated against their will unless they were at serious risk of suicide or posed a serious danger to the life or health of others. In addition, the Act, as amended, established that patients were entitled to up to five hours of free legal counsel in connection with complaints concerning examinations and treatments performed without their consent and that each use of coercion had to be assessed in consultation with the patient as soon as possible after it had ended. A committee had been set up to review national legislation on the use of coercion in the health-care and care sectors in terms of, inter alia, its conformity with the country's international obligations.

6. The Research Council of Norway had awarded a grant of NKR 15 million to fund a research project on the use of involuntary measures. The project would focus on geographical differences in the use of involuntary measures and on strategies for reducing referrals to specialized health-care services. Furthermore, an e-learning training course would be developed for the staff of health-care facilities and appeal bodies.

7. The regulations governing the use of police custody cells stipulated that detained persons should be transferred to a prison facility within 48 hours of their arrival at a police custody cell. Owing to increased prison capacity and the introduction of new guidelines and procedures, the number of breaches of the 48-hour rule had fallen from 4,250 in 2013 to 639 in 2017. In addition, the average duration of such breaches had fallen.

8. Beginning in 2005, the State authorities and the Sámediggi (the Sami parliament) had concluded political agreements to formalize their consultation processes. Several such consultation processes took place each year. The Government intended to present a bill to the Storting later in 2018 in order to enshrine those processes in law. In that connection, Norway wished to clarify its understanding of consultation and its interpretation of the concept of free, prior and informed consent. Article 27 of the Covenant and the

Committee's interpretation of that article were central elements of Sami policy in Norway. However, although measures that would amount to a denial of a community's right to enjoy its own culture would be incompatible with that article, a general requirement to obtain agreement or the free, prior and informed consent of a particular community could not be derived from existing international instruments.

9. As part of a new political platform on effective migration presented in January 2018, the Government had made a commitment to overhaul its integration and inclusion policy. The Government aimed to launch a new integration strategy by the end of 2018. The strategy would provide for measures to integrate immigrants and to prevent negative social influence over young people from immigrant backgrounds.

10. **Mr. Heyns** said that the State party was to be commended on its recent efforts to strengthen the protection of the rights enshrined in the Covenant. Those efforts included a 2012 amendment to the Constitution concerning the role of the Church of Norway. However, although the Lutheran faith was no longer recognized in the Constitution as the "official religion of the State", it continued to enjoy a privileged position in relation to other religions. In addition, freedom of religion as such was not recognized in the human rights catalogue incorporated into the Constitution in 2014. In that context, he wondered to what extent the full separation of Church and State was an ideal towards which the State party aspired.

11. He wished to know whether the powers granted under the 2016 amendments to the Police Act and the Criminal Procedure Act would be used as part of efforts to anticipate criminal activity. On a related point, he would be grateful if the delegation could provide information on the Government's proposal to develop a system for bulk data retention and comment on the possible impact of such a system on the enjoyment of the right to privacy.

12. **Mr. Muhumuza** said that that Committee was concerned by the State party's maintenance of its reservations to the Covenant. With regard to its reservation to article 10 (2) (b) and (3) of the Covenant, which concerned the separation of juvenile accused persons and juvenile offenders from adults, the State party had taken the position that, given the small number of juvenile prisoners in its territory, their separation from adults would result in their total isolation. In that connection, he wished to know whether the trial project that the State party had initiated to establish a separate unit for juvenile prisoners was still ongoing and what measures had been taken to ensure its long-term viability. In addition, he would be grateful if the delegation could comment further on the risk of isolation, indicate how a balance was struck between that risk and the rights of juveniles and explain the purpose of the State party's continued maintenance of the reservation in question.

13. In support of its reservation to article 14 (5) of the Covenant, which concerned the right to have a conviction and sentence reviewed by a higher tribunal, the State party had explained that the national judicial system included a court of impeachment, which was a special court for handling criminal cases against members of the Government, the Storting and the Supreme Court, with no right of appeal. It was unclear what safeguards were in place to ensure that persons brought before that court enjoyed all necessary judicial guarantees, what efforts were being made to prevent injustice in its work and, ultimately, why it was necessary to try political leaders under a special procedure. In that connection, he would appreciate further information on the possible implications of the provisions of the Criminal Procedure Act that denied a defendant who had been acquitted in the first instance but convicted by an appellate court the right to a review of the assessment of evidence relating to the question of his or her guilt.

14. He would appreciate more information on the State party's reservation to article 14 (7) of the Covenant, which concerned a person's right not to be tried or punished again for an offence for which he or she had already been finally convicted or acquitted, as the *non bis in idem* served to prevent double jeopardy.

15. The State party reasoned that it could not lift its reservation to article 20 (1) of the Covenant, which concerned propaganda for war, as an obligation to prohibit such propaganda would, inter alia, undermine freedom of expression. He wondered whether the State party's decision to maintain that reservation had been informed by the Committee's general comment No. 11 on prohibition of propaganda for war and inciting national, racial

or religious hatred, in which it was stated explicitly that article 20 (1) did not prohibit advocacy of the sovereign right of self-defence or the right of peoples to self-determination and independence in accordance with the Charter of the United Nations, and what steps had been taken to ensure respect for the purpose and objective of article 20 (1). Once again, it was unclear what the State party stood to gain from maintaining the reservation in question.

16. The Committee urged the State party to ensure that the national human rights institution was independent and that it was adequately resourced and was granted adequate investigative powers to discharge its mandate effectively.

17. **Ms. Jelić** said that she wished to know how many cases of hate speech and hate crimes had been reported; how many such cases had resulted in charges and convictions; whether the comprehensive strategy against hate speech launched in November 2016 had been effective; whether all the measures for which it provided had been fully implemented; and, in the context of the State party's obligations under article 14 of the Convention for the Protection of Human Rights and Fundamental Freedoms (European Convention on Human Rights), whether association with a national minority was recognized as a motivation for hate speech.

18. With regard to the strategy against hate speech, it would be useful to learn how frequently the reference group set up to provide input on its content met, when the text of the strategy would be translated into North Sami and English and when the associated information material for children and young people would be translated into Northern Sami. Concerning the Stop Hate Speech campaign, it was unclear whether the national youth network against hate speech had been established, as had been proposed, and, if it had, what the outcomes of its work had been.

19. She would appreciate updated statistics, for 2016 and 2017, on the number of reported hate crimes motivated by ethnicity. With regard to section 21 of the Immigration Act, she wondered on what grounds police officers had the power to conduct identity checks on persons thought to be foreign nationals, whether those grounds were set out in the text of the Act and what measures were permitted of police officers in their exercise of that power.

20. She wished to know how the complaints of discrimination on the basis of ethnicity made against the Norwegian customs service in the previous five years had been dealt with and what measures had been taken to ensure the systematic collection and registration of comprehensive, reliable and standardized data on hate speech. In addition, it would be helpful if the delegation could indicate what efforts had been made to ensure that police districts were able to respond adequately to cases of hate speech and hate crimes and whether the commendable experience of Oslo police district in that regard had been replicated in other parts of the country.

21. She would appreciate information on the number of people with immigrant backgrounds who had made use of housing subsidies and on any measures taken to evaluate the effectiveness of both the Housing for Welfare strategy and the corresponding guide. She would like to hear about the measures taken to ensure the effective integration of people with immigrant backgrounds into the labour market, including details of the Job Opportunity scheme.

22. She wished to know whether the State party had a legal definition of multiple discrimination as a wrongful act and if so, whether there were specific provisions for the corresponding punishment. She would be interested to hear more about the role of women with immigrant backgrounds in equality-promoting activities and about the implementation of the Action Plan to Promote Equality and Prevent Ethnic Discrimination. In addition, she would welcome information on the steps taken to reduce the wage gap between men and women and on the increased funding given to the Girls and Technology project, which promoted careers in science for young women.

23. **Ms. Kran** said that she would like to know what was being done to ensure that transgender people received the same level of health care as other citizens, and whether consideration was being given to the possibility of ensuring public funding for gender-reassignment surgery.

24. It would be helpful to have an account of the measures taken to address the high acquittal rate for rape cases and of how the 2016 escalation plan for combating violence and sexual abuse would eliminate the barriers faced by rape victims in the justice system. She would appreciate information on the number of allegations of rape which had been brought before the courts and on how many such cases resulted in convictions. She would welcome details of the measures taken to prevent violence against Sami women, including information on steps to reduce the linguistic and cultural barriers between officials and Sami women in that context. She would like to know whether the State party planned to revise the definition of rape so that it focused on the lack of consent; she also wished to know how many convictions had resulted from the prosecution of lesser sexual offences, as provided for under section 297 of the Penal Code.

25. It would be useful to learn more about the research on domestic violence which Norway had undertaken recently. In addition, it would be interesting to hear about the possibility of establishing a policy framework for dealing with domestic violence. Lastly, the Committee would welcome information on training to eliminate the stereotypes found in the justice system, associated with the victims of domestic and sexual assault.

26. **Mr. Shany** said that he would appreciate clarification on the mandate of the Equality and Anti-discrimination Ombudsman; specifically, he would like to hear the delegation's comments on the recommendations issued by the Council of Europe Commissioner for Human Rights, including those regarding the Ombudsman's ability to provide assistance and legal representation to the victims of discrimination.

27. **Mr. Heyns** said that he would welcome the delegation's comments on reports of the disappearance of numerous unaccompanied asylum-seeking minors and the possible link to human trafficking. Although a medical assessment was required to justify the application of electroconvulsive treatment to persons with disabilities, there was no requirement regarding the independence of the physician delivering the assessment. In addition, the use of coercive force on patients with disabilities was regulated by guidelines, rather than by a formal legislative framework. He would appreciate the delegation's observations on the situation.

The meeting was suspended at 4 p.m. and resumed at 4.20 p.m.

28. **Mr. Rotevatn** (Norway) said that the Covenant was fully incorporated into domestic legislation, making article 18 on the right to freedom of thought, conscience and religion directly applicable. In addition, article 16 of the Constitution broadly provided for the freedom of religion. The full separation of Church and State was indeed an ideal for which the country was striving. However, it had been the King's express wish that article 4, which stipulated Evangelical Lutheranism as the official religion of the monarch, be retained in the Constitution.

29. Compliance with the right to privacy was a central consideration for the Government. Plans were under way to appoint a commission to assess the surveillance methods available to the police in the context of that right. Bulk access to cable-bound communication was an ongoing topic of discussion in the light of developments in the areas of transnational threats, globalization, technology and human rights law. The Government was working on a new legal framework for the surveillance of such communication by the national intelligence service. Access to cable-bound communication was crucial to the country's defence capabilities, but it was also essential that such access should be compliant with human rights standards.

30. Norway upheld its reservation regarding article 10 (2 (b) and 3). However, the Government had complied with the Committee's recommendation to keep juvenile detainees separate from adults, and the country's two juvenile detention units were sufficient to accommodate the low number of underage detainees in the system.

31. The national human rights institution was fully independent; neither Government nor Parliament could instruct the institution regarding operational or substantive matters, and its mandate was to protect human rights in accordance with the Constitution and international law. The institution, whose staff numbered 16, was legally required to ensure that its personnel had a broad range of expertise, including on the rights of indigenous

peoples and minority groups. Funding for the institution, which was a dedicated item in the national budget, had consistently and significantly increased since its establishment in 2015.

32. **Ms. Birabwa Haveland** (Norway) said that hate speech motivated by association with a national minority fell within the scope of the national strategy against hate speech. The reference group appointed to work on the strategy had plans to meet in early 2018, and the text of the strategy had been translated into English and North Sami. Several measures, including the organization of conferences and the launch of a special website, had been implemented to combat hate speech.

33. **Mr. Austad** (Norway) said that 549 cases of hate crime had been reported to the police in 2017. However, because the process for reporting the crime was still not fully developed, such statistics were not yet conclusive. That said, the Oslo police department, which was conducting cutting-edge work on the issue, had established a formal group to deal with hate crime.

34. In 2016, 175 cases of hate speech or of violence motivated by hatred had been registered in Oslo, which led the way in terms of registration of such offences; not all police districts had the same capacity. The analysis showed that hate crimes did not systematically target a particular group but were directed at individuals and groups of varying kinds. The quality of the statistics produced should improve with time. The fact that court cases were being brought against the perpetrators of hate speech showed that the police were responding to complaints. In 2016 no such cases had been dismissed for lack of police capacity. Action had been taken on all cases, though some had been closed for lack of evidence.

35. On the question of ethnic profiling in the enforcement of the provisions of section 21 of the Immigration Act governing foreign nationals' presence in the country, he said that police could request proof of identity only where the time, place and situation gave appropriate grounds for a check and they had reason to believe the person was in fact a foreign national. They could not do so simply on the basis of the person's appearance. Regardless of ethnicity, checks must be conducted in a proper manner. Basic training equipped the police to deal with social groups of all kinds with respect and consideration.

36. **Ms. Haare** (Norway) said that a strategy on "Housing for welfare" had been launched in 2014 with the aim of providing all citizens with decent housing and in particular ensuring an adequate supply of rental housing for the more disadvantaged in the housing market. The target was a 10 per cent increase in the amount of rental accommodation by 2020 and supply had risen steadily since 2014. One result was that 81 per cent of immigrants now received accommodation six months after obtaining their residence permit. A midterm evaluation was under way and another would be conducted in 2020. No specific figures were available for the number of persons with an immigrant background receiving housing allowances. In all around 95,000 households had received such allowances in 2017.

37. **Mr. Knudsen** (Norway) said that, under proposed amendments to the Introduction Act governing induction schemes for immigrants, the Introduction Programme would be more job oriented. The programme could be extended for up to three years if that was considered likely to improve a person's employment prospects. The Programme had been evaluated in October 2017 and the Act was to be thoroughly reviewed in 2018.

38. The goal of the Norwegian Language Training and Social Studies scheme was to provide adult immigrants with sufficient language skills to find employment and take part in society. The 2018 budget allocated nearly NKR 3 million to additional training for teachers. The Job Opportunity Programme had been allocated NKr 120 million in the 2018 budget and the scheme was currently being evaluated.

39. The Government had commissioned the Norwegian Agency for Quality Assurance in Education, which was responsible for recognition of foreign qualifications, to develop a web portal to ensure that clear information was available to those seeking authorization to work in a regulated profession. A supplementary education scheme for refugees with foreign degrees had also been launched.

40. **Ms. Birabwa Haveland** (Norway) said that multiple discrimination was now formally prohibited under the new equality and discrimination legislation. The Equality and Anti-Discrimination Tribunal was authorized to award compensation for discrimination in employment. The wage differential between women and men had narrowed since 2015, when the average wage for women had been 85.3 per cent of that for men; in 2017 the figure had risen to 86.7 per cent. In addition to the procedures and mechanisms described in the report, she said that the Government was also looking into the methods Iceland had used to address the gender pay gap. The Government continued to support the Girls and Technology programme and intended to implement it nationwide.

41. **Ms. Hellevik** (Norway) said that lesbian, gay, bisexual and transsexual (LGBT) persons had the same rights to health care as everyone else in Norway. The group as a whole enjoyed good health, albeit with certain particularities, such as higher rates of psychiatric problems, suicidal behaviour and substance abuse. There was limited information specifically on the health of transsexual persons. Issues that had arisen in respect of the medical treatment and rights of transgender persons had prompted a re-evaluation of the approaches used and the Directorate of Health was working on guidelines for the treatment of persons with gender dysphoria or gender incongruence. In addition, the service and competence structures were being reviewed and the Government was considering a set of suggestions recently provided by an expert panel for the improvement of health care for LGBT persons.

42. **Mr. Rotevatn** (Norway) said that his Government was very concerned at the underreporting of rape. According to a 2014 study, 9.4 per cent of women and 1.1 per cent of men had been subjected to rape at some point in their life. Only 10.5 per cent of the women had reported the case to the police. Another study had shown that a large majority of victims felt ashamed or felt they had been to blame. Such findings clearly demonstrated the need to send clear messages about the gross violation that a rape represented and about the assailant's responsibility.

43. The police placed great emphasis on seeking immediate assistance and reporting as soon as possible, not least in order to preserve important evidence. Every police district now had a support centre for victims of crime and 23 local medical reception centres for rape victims had their own websites. Such centres provided intersectional assistance to victims and relatives, as well as legal support. Efforts to increase the visibility of violence had resulted in a sharp rise in the number of reported cases of domestic violence and rape. Alongside prevention campaigns targeting young men in particular, a new government action plan was to be launched in 2018, focusing particularly on younger men's attitudes and fostering respect for their own and others' integrity, but also aiming at improving police investigation of rape, providing support measures for victims and coordinating responses from official agencies.

44. As to the definition of rape, his Government believed that section 291 of the General Civil Penal Code captured most possible situations of non-consensual sexual acts. Moreover, the penalties provided for, ranging from 3 to 15 years' imprisonment, were very severe for a country with a traditionally liberal and humane penal system. Any behaviour not covered by section 291 would fall within the scope of section 297, which made it an offence to perform sexual acts with persons who had not given their consent, although the penalties were less severe. A proposal on the definition of rape from members of Parliament was currently before the Standing Committee on Justice and the Government would assess the situation when Parliament had taken a decision.

45. **Ms. Knotten** (Norway) said that research suggested that abused individuals from minorities might experience particular cultural or linguistic challenges in dealing with support services, which might have the effect of preventing them from reporting violence. A recent study by the Norwegian Centre for Violence and Traumatic Stress Studies, of experience in providing services to Sami women affected by violence, had demonstrated the importance of victims being able to communicate in their own language when speaking to officials. Cultural considerations such as the traditional view that Sami women were required to be strong, or that the individual was secondary to family and community, might also dissuade victims from reporting abuse. Relevant ministries were now looking at measures to deal with the challenges raised by the study.

46. One component of the escalation plan for combating violence and sexual abuse was further research into violence in Sami areas. The plan was to run from 2017 to 2021 and follow-up would be conducted in close cooperation with the Sami Parliament. In addition, an allocation of NKr 2 million per year had been made to research into the health consequences of domestic violence and NKr 6 million per year to research, under the action plan to combat negative social control, into the underlying causes, and the extent and consequences, of domestic violence, as well as the experience of services working with victims and the work of NGOs. The Ministry of Justice was considering whether to propose a new action plan on domestic violence.

47. The Norwegian courts took rape and gender-based violence extremely seriously and special training was provided, both by the Courts Administration and by individual courts, in procedural, legal and ethical issues, particularly those raised by difficult cases where conflicting evidence was presented. The court system also included nearly 50,000 lay judges, who were ordinary people from all walks of life. A lay judge had no knowledge of the specific case being tried or the area of law involved in the case. The prosecution and the defence were required to argue the case and instruct the judge and the lay judges in the relevant substantive law in order to help them reach a correct decision.

48. **Ms. Birabwa Haveland** (Norway) said that the Equality and Anti-Discrimination Ombudsman was empowered to take cases to court, including to ordinary courts, on behalf of victims.

49. **Mr. Austad** (Norway) said that his Government regarded the disappearance of minors from reception centres for asylum seekers as a serious issue. Nevertheless, all the indications were that they tended to leave of their own free will rather than at the instigation of some other party with criminal intentions. It was important to bear in mind that residence in such centres was voluntary. The number of children disappearing from reception centres had increased over the past few years and there had been some disturbances due to longer processing times. In addition, the number of children being granted limited residence permits, which expired when the child turned 18, had increased, which had led some children to abandon their reception centres for fear of forced return. The Government had taken several measures to improve the situation, such as improving the quality and quantity of the staff at its reception centres and settling the cases of minors with limited residence permits more quickly.

50. Regarding rape cases, he wished to add that the Government had repealed its jury system so that, in the future, rape cases subject to appeal after proceedings in district courts would no longer be heard by a jury, but rather in a different form of court. Many rape cases heard in district courts ended in convictions, but the accused were often acquitted in the court of appeal. However, he did not know whether the court of appeal applied more stringent criteria regarding the burden of proof than district courts, so he was not yet able to say whether more rape cases would lead to sentencing in the future. With regard to the training of prosecution services in how to deal with rape cases, in 2016, the Norwegian prosecutor-general had ordered the country's 10 district public prosecutor's offices to systematically review several hundred cases involving rape and domestic abuse to assess the quality of the investigations carried out as part of those cases. Their review revealed that the quality of police interviewing had improved, but that there was much room for further improvement in general.

51. **Ms. Hellevik** (Norway) said that, in June 2017, the Directorate of Health had published national guidelines on the use of electroconvulsive therapy stressing that the therapy could not be performed without valid, written consent from the patient, except in emergency situations in which the life or health of the patient was in immediate danger. The rules regulating the use of electroconvulsive therapy were not written into Norwegian law, but were included in possible amendments to the Mental Health Care Act. A legislation committee had been appointed to review whether electroconvulsive therapy should ever be performed without prior consent. If the committee decided that it was permissible to perform the therapy without prior consent in certain emergency situations, then the wording used to write the appropriate provisions into the Mental Health Care Act would have to be carefully considered and set out very stringent criteria. Although a clearer

legal basis for the use of electroconvulsive therapy might seem like a good thing, it could lead a higher incidence of the therapy being performed without prior consent.

52. **Mr. Kjeldsberg** (Norway), responding to the questions put by Mr. Muhumuza regarding reservations to the Covenant, said that the court of impeachment was regulated by the Constitution and specific legislation. Its remit was limited to breaches of the Constitution by members of the Storting, members of the Government and Supreme Court justices. There were no plans to reform the system. With regard to the Criminal Procedure Act, cases were reviewed by at least two courts, but that there was no further review of the evidence in relation to the issue of guilt by the Supreme Court. Furthermore, the Government maintained its reservation to article 14 (7) because of issues arising from its incompatibility with the Norwegian system for reopening criminal cases. However, he wished to point out that the principle of *non bis id idem* was an integral part of Norwegian criminal procedure, both in domestic law and in relation to the additional protocols to the European Convention on Human Rights.

53. In relation to article 20 (1), the Government maintained that it would be problematic to prohibit all propaganda for war, as such an act would undermine freedom of speech. In addition, formulating appropriate limitations to the scope of such a prohibition would pose considerable difficulties.

54. **Ms. Birabwa Haveland** (Norway) said that the Government was aware that Sami women were exposed to violence more often than ethnic Norwegian women. The Government provided a number of services through which Sami women who were victims of violence could seek help. For example, under Norwegian legislation, every municipality in the country, including in traditionally Sami areas, was required to provide shelter to all victims of gender-based violence. The Government employed family counselling service officers and funded support centres for victims of sexual abuse in every county. Family counselling services had been strengthened since 2014, in order to provide help to families experiencing violence in close relationships. Furthermore, a Government website containing information for victims of rape and gender-based violence entitled "Your Way Out" had been translated into North Sami. Following reports that the Sami population faced specific challenges when interacting with the police and support services, the Government was looking into specific cases where Sami peoples were not provided with appropriate services.

55. **Ms. Hellevik** (Norway), responding to a question put by Mr. Heyns, said that, in 2017, a number of amendments had been made to the Mental Health Care Act, many of which dealt with issues surrounding involuntary treatment, in response to concerns raised by users' organizations. Under the revised Act, the attending health-care professional was now required to consult with another health-care professional before making a decision on involuntary treatment. The two consulting health-care professionals were not required to be professionally independent of one another, but it was preferable that at least one of them should have long-term knowledge of the patient's case. A legislation committee had been tasked with reviewing the Mental Health Care Act and its amendments. The committee would consider whether any changes had to be made to the Act, including its provisions on involuntary treatment, to ensure full respect for human rights.

56. **Mr. Heyns** said that he understood that Norwegian children up to age of 18 had access to welfare, but that foreign children seeking asylum had access to welfare only up to the age of 15. He was interested to know why that was the case.

57. Turning to the issue of surveillance, he understood that it was the State party's position that its surveillance programmes were unproblematic from the human rights perspective. Nevertheless, the fact that the Norwegian police was permitted to hack citizens' computers even if those citizens could not reasonably be suspected of having committed a crime raised a number of questions. Furthermore, the indiscriminate collection of data transmitted by cable or satellite and their subsequent storage for an undetermined, potentially indefinite period of time raised a number of questions regarding the right to privacy. He wondered whether the delegation could comment on the question of whether the issue of surveillance did give rise to human rights problems and, if so, how the right to security could be reconciled with the right to privacy.

58. **Ms. Jelić** said that she had read reports indicating that a high proportion of Sami men and women experienced discrimination on the basis of their ethnicity and that discrimination against Sami children occurred in kindergartens, where there was an insufficient number of teachers capable of teaching in a Sami language. Sami children had the right to be taught about their traditions and history in their native languages. Moreover, all children in Norway should have basic knowledge of Sami cultures. She wished to know what steps the State party was taking to address those issues.

59. Immigrants and ethnic minorities experienced discrimination when it came to renting accommodation in the State party. According to reports from civil society, rental contracts drawn up for immigrants and ethnic and national minorities typically contained less favourable conditions than contracts drawn up for other Norwegian tenants. Immigrants also lacked awareness of their rights as a result of language barriers. She wondered whether the State party had taken steps to provide immigrants with information on their rights in a language that they understood, specifically regarding their right to bring complaints of discrimination in the tenancy market before the Equality and Anti-discrimination Ombudsman. Furthermore, as a follow-up to the questions put by Mr. Shany, she wished to know whether the Equality and Anti-discrimination Ombudsman had ever used its right to represent complainants before the court in discrimination cases. It was her understanding that it lacked the sufficient human and financial resources to do so.

60. **Mr. Muhumuza** said that, according to article 14 (5) of the Covenant, everyone convicted of a crime had the right to his or her conviction and sentence being reviewed by a higher tribunal according to the law. There was an important distinction to be drawn between convictions and trials. If a person was tried in the courts and found not guilty, but was then found guilty in an appellate court, the decision of the appellate court would constitute the first conviction. Article 14 (5) established the right to a review of the first conviction, not the first trial. The State party should therefore reconsider whether its practice was in keeping with the Covenant.

61. **Mr. Rotevatn** (Norway), responding to the questions put by Mr. Heyns, said that Norway had an age-adjusted reception offer for children seeking asylum. Unaccompanied minors between the ages of 15 and 18 were offered care and accommodation in special reception centres, but only children under the age of 15 were offered accommodation in care centres managed by the Child Welfare Service, because younger children generally required a higher level of care than older children. The different type of care offered to children under the age of 15 therefore served a legitimate purpose and did not constitute discrimination. If an unaccompanied minor over the age of 15 required additional care, adjustments could be made in the reception centre to meet that minor's special needs. In addition, the Child Welfare Act applied to all children in Norway, including unaccompanied minors in reception centres; employees of reception centres were therefore required to report any concerns they might have with regard to all children seeking asylum to the municipal authorities.

62. Under Norwegian intelligence legislation, the national intelligence services were permitted to intercept data transmitted by satellite with a view to identifying foreign threats to national security, but were not permitted to track the activity of Norwegian citizens as that fell within the remit of the police. The intelligence services' activities were compliant with the Covenant and the European Convention on Human Rights and were subject to review by an independent body of the Storting. The Government was still exploring its options in terms of the collection of data in bulk and was mindful of the need to balance the country's security needs and its obligations under international human rights instruments.

63. **Mr. Megard** (Norway), responding to the questions put by Ms. Jelić, said that the Government was aware of the discrimination felt by the Sami peoples. The Government had long been trying to resolve problems arising from issues of ethnicity through its policy initiatives. The curriculum taught in Norwegian kindergartens contained modules relating to Sami history and culture. Under Norwegian law, the municipal authorities in Sami areas were required to ensure that education was provided in Sami languages. The Sami-language requirements of the municipal authorities in other areas were less strict. Most schools found it difficult to recruit teachers. The Government had therefore decided to prioritize capacity-building and continued training, which included training in Sami languages. For example, a

5-year Master's degree in teaching in Sami languages would be offered at certain universities as of 2018 and resources had been spent on attracting more students to Sami-language and teaching courses. In addition, the Ministry of Local Government and Modernization ran a programme through which it selected young members of the Sami communities to travel around Norway teaching secondary school pupils about Sami culture.

The meeting rose at 6.00 p.m.

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Summary record of the 3459th meeting
Held at the Palais Wilson, Geneva, on Thursday, 15 March 2018, at 10 a.m.

Chair: Mr. Iwasawa

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Seventh periodic report of Norway (*continued*)

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The meeting was called to order at 10.05 a.m.

Consideration of reports submitted by States parties under article 40 of the Covenant (*continued*)

Seventh periodic report of Norway (*continued*) (CCPR/C/NOR/7; CCPR/C/NOR/QPR/7)

1. *At the invitation of the Chair, the delegation of Norway took places at the Committee table.*

2. **The Chair** invited the delegation to continue replying to the questions raised by Committee members at the previous meeting.

3. **Mr. Rotevatn** (Norway) said that 1,904 reports of rape had been filed with the police in 2015. In the same year, some 1,392 cases of rape had been investigated, 333 charges had been brought and 180 convictions had been handed down.

4. Norway upheld its reservation to article 14 (5) of the Covenant. Pursuant to article 86 of the Constitution, Norway had a legal system made up of a court of impeachment, a special court for handling criminal cases against members of the Government, and the Supreme Court, with no right of appeal. In addition, the Criminal Procedure Act provided that errors in the assessment of evidence in relation to the question of guilt failed to constitute a ground for appeal. If a defendant had been acquitted in the first instance, but convicted by an appellate court, the defendant had no right to appeal the assessment of evidence in relation to the question of guilt. If the appellate court that convicted the defendant was the Supreme Court, there was also no right of review.

5. National legislation expressly prohibited discrimination in the housing market on the basis of skin colour, language proficiency, nationality, ethnicity or religious background. Recent surveys had, however, revealed the existence of discriminatory mechanisms that forced certain groups of persons to pay higher rents. To tackle those unfavourable conditions, the Government had launched a number of awareness-raising campaigns in several languages to inform persons from ethnic minority backgrounds of their housing and tenancy rights. Victims of discrimination also had the option of bringing their case before the Rent Disputes Tribunal and had the right to an interpreter for the duration of the proceedings.

6. The strategy to combat hate speech was in the process of being translated into Sami and would be available in that language soon. The results of the 2012 action plan to promote equality and prevent ethnic discrimination had recently been assessed and it had been found that the anti-bullying work by the Ministry of Education and the agreement between the authorities and relevant social partners to promote equality in the workplace had proven particularly effective in combating ethnic discrimination of all kinds. The Government therefore intended to continue its work in that regard over the coming years.

7. The Directorate for Children, Youth and Family Affairs was responsible for implementing the national ethnic equality policy and had recently organized a forum to tackle ethnic discrimination issues that had brought together a variety of relevant stakeholders.

8. Data regarding the number of discrimination cases referred to the courts by the Equality and Anti-discrimination Ombudsman would be provided in writing at a later date. In 2017, around 95,000 households had received government housing allowances, including some 25,000 persons from a migrant background.

9. **Ms. Kran** asked whether the State party intended to end the practice of placing persons with psychosocial and intellectual disabilities in conflict with the law in solitary confinement and ensure that they had access to the appropriate support and health-care services while serving their sentence. She also wished to know what efforts had been made to reduce the overall number of prisoners excluded from the general population and ensure the proportionality between the length of solitary confinement and the reason for exclusion. It would be particularly interesting to hear whether the Government intended to set a maximum number of days that prisoners could be held in solitary confinement.

10. As for access to legal assistance, she wondered whether action would be taken to guarantee access to a lawyer from the outset of detention for persons deprived of their liberty. Information on the steps taken to amend the Legal Aid Act so that it applied to a broader range of cases would also be welcome in that regard.

11. In regard to medical confidentiality, she requested further clarification of the measures taken in prisons, particularly the Trandum facility, to ensure that information regarding the health and medical needs of prisoners remained confidential and was not made available to prison employees without the express, prior consent of the prisoner concerned. She also wished to know what steps had been taken to improve prisoner hygiene at the existing Bergen police headquarters and ensure that the new police station being built to replace it included cells that had access to daylight.

12. She expressed concern at the plan to ease prison overcrowding by sending Norwegian prisoners to the Norgerhaven prison in the Netherlands and asked what measures had been taken to protect the rights of Norwegian citizens imprisoned abroad. In the light of the forthcoming closure of the Norgerhaven prison, it would be useful to know what action had been taken to create new prison places in Norway so as to prevent overcrowding and maintain adequate conditions of detention.

13. In respect to juveniles deprived of their liberty, she requested further information regarding the 34 cases of minors being held in police cells for more than 24 hours before their court hearings. She would particularly like to know what measures had been adopted to prevent the reoccurrence of such events and uphold the provisions of the Criminal Procedure Act relating to minors.

14. Lastly, she asked whether the convictions handed down in rape cases fell under section 291 of the Criminal Code governing more serious sexual offences or section 297 concerning lesser offences of sexual assault.

15. **Mr. Muhumuza** said that he would like to know what steps had been taken to ensure that the detention of asylum seekers was lawful, necessary and proportional and not imposed on the grounds of administrative expediency. Information on efforts made to eliminate the detention of child asylum seekers would also be welcome in that regard. It would be particularly interesting to know what action had been taken to review the practice of using cells in the Trandum facility to house asylum seekers pending review of their asylum applications.

16. Regarding the status of the Roma, he asked what measures had been taken to consider the findings of the government committee's report on the assimilation of the Roma and to establish special protection measures for the Roma community. He also wondered what efforts had been made to engage in closer dialogue with the Roma community and provide compensation for past violations of their rights under the national assimilation policy. Expressing concern at the comparatively high number of Roma children taken into foster care, he wished to know what steps had been taken to provide better support to Roma parents and ensure that child protection measures were used as a last resort.

17. **Mr. Heyns** said that, as he understood it, children aged between 15 and 18 with Norwegian citizenship were eligible for support under the Child Welfare Act, whereas asylum seekers in the same age bracket were not. He would like to know whether his understanding was correct and if so, why such a distinction had been drawn. The Norwegian Institute for Urban and Regional Research had recommended extending the application of the Child Welfare Act in order to reduce the number of disappearances of child asylum seekers.

18. The Minister of Immigration and Integration had stated in December 2015 that the Government's priority was to have the most restrictive asylum policy in Europe. The Committee was concerned by the implication that policies in that area were based on a comparison with neighbouring countries, rather than on international standards. It was also concerned that certain legal safeguards for asylum seekers had been abolished or diluted.

19. Noting that persons who were born in Norway but were not lawful residents were now able to acquire Norwegian nationality, thanks to an instruction issued in 2016, he asked whether the provisions of that instruction would be enshrined in an act of parliament.

20. Expressing concern at the recent proposal that only persons with a residence permit should be allowed to apply for citizenship, he asked what steps were being taken to establish a legal definition of statelessness and a statelessness determination procedure, in accordance with the Committee's general comment No. 17 on the rights of the child and the Handbook on Protection of Stateless Persons.

21. **Ms. Jelić** said that she would welcome more information on the composition of the Finnmark Commission, the number of Sami representatives in that Commission and the number of Sami judges in the Uncultivated Land Tribunal for Finnmark.

22. The Committee had been informed that a special commission on Sami rights had submitted recommendations to the Government in 2007 but that the response had been inadequate. It would be useful to know what stage had been reached in the follow-up to those recommendations.

23. Noting with concern that the Sami consultation agreement did not cover financial decision-making, she asked to what extent the Sami peoples were consulted on budgetary issues that affected them. In the Sami parliament's submission to the Committee, concerns had been raised about two recent Supreme Court judgments, which were considered to undermine the rights of the Sami peoples and to prevent them from protecting their culture. She would like to hear the State party's comments on those cases.

24. It would be useful to know what stage had been reached in the ongoing discussions between the Government and the Sami parliament on the amendment of the provisions on consultation in the Sami Act. She also wondered whether the need to obtain free, prior and informed consent from indigenous peoples on issues affecting them had been established by law; what stage had been reached in the drafting of the Nordic Sami convention; and whether the Government had monitored the consultations on that draft convention.

25. She would be interested to hear how the Government had responded to the proposals that the fishing rights of Sami along the coast of Finnmark should be recognized in statutory law and that reindeer herding legislation should be amended to ensure sustainable and equitable herding. Lastly, she would welcome more information on the mandate, mission and composition of the truth commission for the Sami peoples that was being set up.

26. **Mr. Shany**, referring to paragraph 208 of the State party's report, asked whether the Government was able to collect data on minority groups and if not, how it was able to design specific policies to support those groups.

The meeting was suspended at 11.05 a.m. and resumed at 11.25 a.m.

27. **Ms. Hellevik** (Norway) said that the Government was committed to improving mental health services for prisoners. Primary care for prisoners was provided by municipal health services, while secondary health care was provided by specialists at the regional level. A study conducted in 2014 had shown that the incidence of mental disorders among convicted prisoners was significantly higher than among the general population. A working group appointed to follow up on that study had issued 16 recommendations, which were being considered by the relevant ministries. In addition, the Directorate of Health had commissioned a regional research centre to draft a report on the organization of mental health services for prisoners.

28. Steps were being taken to increase the number of mental health specialists in prisons. Units for the treatment of substance abuse had been set up in 13 prisons. Prisoners requiring hospitalization were transported to external hospitals. The Government was considering increasing the number of beds in hospitals, in order to address the concern that inmates who were hospitalized for psychiatric treatment were returned to prison too soon. Prison staff were responsible for deciding whether coercive measures, such as solitary confinement, were necessary. Guidelines issued by the Directorate of Health emphasized that mental health personnel should be consulted before any such measures were imposed, if there were doubts as to the prisoner's mental health.

29. In 2016, Ila prison had been allocated an additional NKr 10 million for the recruitment of specialized personnel because many of its inmates had mental health problems. Those prisoners also received treatment from an external mental health unit.

30. **Ms. Ferguson** (Norway) said that steps had been taken to reduce the use of exclusion in Ila prison. An interdisciplinary working group had been tasked with finding ways to mitigate the adverse impacts of exclusion. It was important to note that exclusion did not always constitute solitary confinement, as defined in international standards. Excluded prisoners were not deprived of human contact and could engage in meaningful activities. Revised guidelines on exclusion had entered into force in March 2017 and a new reporting mechanism, whereby prison authorities were obliged to report on their compliance with the guidelines, had been established.

31. One of the aims of the guidelines was to ensure that all exclusions were properly recorded. The total number of exclusions had risen from 3,697 in 2016 to 4,550 in 2017, partly because of an increase in the registration of exclusions and partly because of disturbances caused by challenging prisoners. The number of exclusions due to staff shortages and building conditions had decreased from 454 in 2016 to 377 in 2017.

32. The average length of exclusion had fallen from around 5 days in 2015 to 3.4 days in 2017. The length of exclusion was not limited by law, but it must be proportional and continuously reviewed. Exclusion could be imposed on minor detainees only as a last resort and when strictly necessary; excluded minors must be monitored continuously and the best interests of the child must be taken into account. In 2015, one minor had been excluded for a period of six days.

33. Prisoners subjected to exclusion could file a complaint with various bodies or apply for a judicial review of the exclusion decision. Exclusions exceeding 14 days must be reviewed by the regional authorities, while those exceeding 42 days must be reported to the Directorate for Correctional Services. The Government was committed to reducing the use of exclusion and to ensuring that decisions made by prison authorities were transparent and well-founded.

34. **Mr. Rotevatn** (Norway), summarizing the information provided in paragraphs 123 and 139 to 141 of his country's report, said that access to legal counsel for arrested persons was provided for in the Criminal Procedure Act. The Ministry of Justice and Public Security was examining the report of the committee that had been tasked with revising the Criminal Procedure Act. There was no means test for legal aid in criminal cases, while legal aid in civil cases was sometimes means tested and sometimes not. For example, there was no means test in child welfare cases or in cases handled by the Supervisory Commission for Mental Health Care, whereas legal aid in child custody disputes, divorce, probate, compensation for personal injury and evictions was means tested. Currently the annual income threshold for entitlement to free legal aid was NKr 246,000 for single persons and NKr 369,000 for married or cohabiting couples.

35. Free legal aid could also be provided in other exceptional circumstances, such as in cases considered to be especially pressing for the applicant or if the legal costs were considered to be substantial with respect to the applicant's financial situation. In addition, the Supreme Court had determined that legal aid could be granted in cases where the conditions laid down in the Legal Aid Act had not been fulfilled, when necessary for Norway to fulfil its international obligations under the European Convention on Human Rights. A review of the legal aid scheme was currently under way with a view to extending coverage and adjusting income thresholds.

36. **Mr. Austad** (Norway) said that the Parliamentary Ombudsman's National Preventive Mechanism, which had been established as envisaged under the Optional Protocol to the Convention against Torture, had conducted several visits to places of deprivation of liberty and had made a number of recommendations, particularly concerning the role of health-care personnel. A visit to the Trondheim facility had been made in May 2015 and a limited visit to its security wing in March 2017. Reports on the visits had been followed by an exchange of letters between the police and the Ombudsman. The increase in the number of persons placed in the Trondheim security wing in 2017 was due to a number of factors including drug-related problems among the prison population. The security wing,

which was specially equipped to help address the different conditions of inmates, was a place for easing tensions and monitoring problems more closely. Placement there did not amount to isolation and could not be considered as a punishment in itself.

37. The Ombudsman had raised the issue of confidentiality in health-related matters at the Trondheim facility. Two of the three doctors working there spoke Arabic and interpreters were available for other languages. Unfortunately, however, it was not always possible to find official interpreters with the necessary language skills and staff or families sometimes had to act as intermediaries. Although that only happened with the consent of the patient involved, it was recognized that it was not an ideal solution and efforts were made to avoid it whenever possible.

38. The Ombudsman had recognized that the Trondheim facility had implemented several of the recommendations arising from the 2017 visit. For example, clocks had been installed in cells and more books and magazines were available in different languages. Steps were being taken to find a solution for persons with psychiatric conditions who posed a risk to themselves or others, whom the Ombudsman had said should not be housed in the security wing at all. Fewer than 10 children a year were placed in the wing. All of them had issues with self-harm and had been considered ineligible for admittance to a psychiatric institution.

39. Regulations concerning the use of holding cells at Bergen police headquarters had been changed following a visit by the National Preventive Mechanism in January 2016. Checks on intoxicated persons were now more frequent and thorough search procedures had been altered so that people no longer had to undress entirely and child welfare authorities were immediately informed in cases of detention of minors. Unfortunately, some of the holding cells were very small and, although there were plans to build a new police station, the existing cells would continue to be used for some time. In the meantime they had been painted and measures had been taken to reduce the psychological and physical impact of being held there.

40. In 2017, a total of 366 children had been detained in police holding cells. Of them, 239 had been held for less than 12 hours, 100 between 12 and 23 hours, and only 26 for more than 24 hours. The holding regime for children was less strict than for adults and they were frequently not physically in the cell but in other rooms, conversing with police officers, visiting the doctor or outside in the fresh air.

41. **Mr. Rotevatn** (Norway) said that, in September 2015, Norway had begun renting 242 places at Norgerhaven Prison in the Netherlands with the aim of resolving two long-standing issues: reducing the number of convicted prisoners awaiting a prison place and ensuring that people could be transferred out of police custody and into prison within 48 hours. Since the agreement had been signed, domestic prison capacity had increased and he could report that the Government had decided not to extend the agreement with the Netherlands. In order to maintain that capacity, double bunking would occasionally have to be used, which the authorities believed was a preferable although not ideal solution.

42. The Government did not share the view expressed by the Ombudsman that prisoners at Norgerhaven Prison were not guaranteed adequate protection against torture and degrading treatment. The prison was administered by a Norwegian governor who interacted closely with the Netherlands authorities, and the agreement between the Netherlands and Norway included a clear division of responsibilities under which both States had a duty to protect the prisoners' human rights. With the exception of the Convention on the Rights of Persons with Disabilities, the Netherlands and Norway were signatories to the same human rights instruments. All acts of torture were an offence under Netherlands law and allegations of torture were duly investigated and punished.

43. **Ms. Bolstad** (Norway) said that asylum seekers generally lived in reception centres and had full freedom of movement. They were not detained as a matter of course; in fact, detention was normally used only for asylum seekers whose application had been rejected or who were to be expelled and were at risk of absconding. Courts regularly verified that the conditions for detention were being fulfilled. Police were required to assess cases individually and to decide whether less restrictive measures could be applied, such as the obligation to reside in a specific location.

44. Recent provisions did allow asylum seekers to be detained while their applications were being processed, but they were not applied to minors or their parents. Adult asylum seekers could be held for up to 72 hours if their application was manifestly unfounded, and detention of up to one week was possible in other cases. The principle enshrined in the Constitution that any deprivation of liberty had to be necessary and proportionate was reflected in the Immigration Act, and the authorities believed that they were acting in line with the country's commitments under article 9 of the Covenant. The purpose of the recent provisions was to accelerate and expedite asylum procedures while maintaining public order. As far as she was aware, no asylum seekers had yet been detained under the new provisions, showing that police did not use them arbitrarily. It was difficult to motivate families with children to accept assisted return, but they were only detained in the context of deportation. In practice, the police only requested detention when the deportation was imminent and there was significant risk of absconding. A bill containing amendments to provisions governing the application of coercive measures under the Immigration Act was currently before parliament. It proposed more specific regulations to govern the detention of families with children and of unaccompanied minors. The provisions had been formulated to ensure that deprivation of liberty was very carefully regulated, particularly in the case of children, and used only as a last resort.

45. **Ms. Haare** (Norway) said that the Government had made its first apology to the Romani people/Tater in 1998, and that apology had been endorsed by all subsequent governments. A 2015 report entitled "Assimilation and Resistance — Norwegian policies towards Romani people/Tater from 1850 to the present" had led to a public hearing in which over 200 submissions had been made. It was difficult for the authorities to find solutions acceptable to a large majority of Romani people/Tater because the group had few representative organizations and there were strong disagreements between those who were organized in associations and those who were not. Nonetheless, the authorities were about to meet with representatives of the group to discuss collective compensation. That compensation had been temporarily suspended due to problems with how it was being administered, although the funds were still being earmarked and set aside.

46. **Mr. Megard** (Norway) said that, since 1998, there had been several schemes to compensate the Romani people/Tater for historical injustices they had faced, such as inadequate schooling and the unwarranted removal of children from families. The schemes, which existed at both national and local level, had a number of special features. For example, there was no statute of limitations on the injustices that could be compensated, there was a lower burden of proof and claims made tended to be believed because the existence of generalized injustice in the past had been acknowledged. Problems in accessing compensation, which had been highlighted by the "Assimilation and Resistance" report, were currently being examined and addressed.

47. Norway was strongly committed to the principle of self-identification for members of minority groups, and no one could be identified as belonging to such a group without their consent. For that reason, the Government did not keep lists of members of ethnic groups. Instead, in actions taken to support such groups, the authorities made use of independent academic research conducted in accordance with the ethical guidelines of the Research Council of Norway. According to that research, there were an estimated 700 Norwegian Roma currently living in the Greater Oslo area.

48. **Ms. Geving** (Norway) said that all children in Norway had equal rights to care and protection, and the Child Welfare Act applied to them all irrespective of status, ethnic background or citizenship. Likewise, the Child Welfare Service was available to everyone in the country, including Romani people/Tater. Its purpose was to support families and to help them live and function together. Eighty-one per cent of its actions involved voluntary measures in areas such as guidance, counselling and the provision of economic aid.

49. Placing children in foster homes or institutions without the parents' consent was always a measure of last resort, and the Child Welfare Act had been amended in 2015 with the introduction of obligatory assistance measures as a way to avoid children being taken into care. When a care order did have to be issued, the criteria for doing so were defined by law. They had to be assessed individually in each case and had to reflect the child's best interests. An order could only be issued when a child was being neglected, abused or

subjected to violence, and when obligatory assistance measures had proved insufficient. Care orders could only be emitted by a county social welfare board or the courts.

50. Parents involved in care order cases were entitled to free legal aid. They could present their case, call witnesses and appeal any decisions made. In addition, each year they could file an appeal for the order to be revoked. Children also had the right to be heard, and their views were given due weight on the basis of their age and maturity. Once a care order had been issued, the Child Welfare Service continued to monitor the condition of both parents and children.

51. She was unable to provide statistics disaggregated by ethnicity, also for the reasons explained by Mr. Megard, but a 2015 report by the Parliamentary Assembly of the Council of Europe (PACE) had showed that Norway was among countries with the lowest numbers of children in alternative care. A study from 2017 had showed that there was little difference in regard to care orders between families from immigrant backgrounds and the rest of the population. However, the immigrant population, particularly refugees, were overrepresented among the groups who received voluntary assistance measures.

52. The authorities had an obligation to look for a suitable foster home for children in alternative care, preferably within the child's own family or network of acquaintances. In choosing a home, account was also taken of the child's individual characteristics such as culture, religion and language. At times it was difficult to find homes that met all those criteria. Currently one out of four children lived in foster homes within their own family or network. The Child Welfare Service was currently implementing a competency development strategy, which included training with a focus on indigenous peoples and national minorities. In addition, legislative amendments had recently been introduced to further strengthen legal safeguards for children and families.

53. **Mr. Rotevatn** (Norway) confirmed that the Child Welfare Act applied to all children in Norway. When concerns about a child's welfare were reported, the municipal child welfare services had to ensure that the necessary care was provided in a timely manner, irrespective of the child's ethnic background, nationality or residency status. The Norwegian Directorate for Children, Youth and Family Affairs was responsible for unaccompanied asylum seekers aged between 15 and 18 years old, and care appropriate to their specific needs was provided by reception centres on behalf of the Directorate.

54. The possibility to seek asylum was viewed as a basic human right. Norwegian immigration policy was restrictive, responsible, based on the rule of law and drafted in line with the country's international commitments. In general, immigration had a positive impact on Norwegian society; however, large-scale immigration posed challenges to integration and the continued sustainability of the welfare state. The Government therefore pursued a stringent immigration policy, while also upholding its international obligations and taking account of the specific needs of immigrants.

55. **Mr. Knudsen** (Norway) said that the Nationality Act was applied subject to any restrictions arising from international law and agreements with other States. Under proposed amendments to the Nationality Act, stateless persons born in Norway without a residence permit would apply for citizenship once they had reached the 18 to 21 year-old age bracket.

56. **Ms. Bolstad** (Norway) said that statelessness did not automatically qualify persons for residency unless they were in need of protection or satisfied the conditions for a permit on the grounds of strong humanitarian considerations. Asylum seekers could be granted residency after three years should practical impediments prevent their return; however, stateless persons often returned voluntarily even when compulsory return could not be implemented. In that light, specific procedures on statelessness had not been deemed necessary.

57. Following amendments to the Immigration Act in November 2015, asylum applications in third countries were not automatically considered. In all cases, however, immigration officials assessed whether the asylum seeker concerned was at real risk of being subjected to treatment contrary to article 3 of the European Convention on Human Rights. The Russian Federation was considered to be safe for most third-country nationals;

even so, each case was examined in line with international standards and on its individual merits, which included questions such as whether the foreign national had been resident in a third country.

58. **Ms. Haare** (Norway) said that the Government was not currently in a position to discuss the decisions issued by the Supreme Court in late 2017 regarding the rights of Sami reindeer herders, in particular since one of the party's involved had indicated an intention to seek recourse through the Committee's individual communication procedure. The judgments of the Supreme Court had been translated into English and copies would be provided to the Committee.

59. The Government was considering how to follow-up on the proposals made by the Sami Rights Committee regarding the identification of rights south of Finnmark. A proposal by the Sami Rights Committee for a bill on consultations was being discussed with the Sami parliament with a view to strengthening the right of the Sami to be consulted on issues that directly affected them.

60. The Government and the Sami parliament had agreed to establish a new budget scheme beginning in 2019. Under the scheme, transfers to the Sami parliament would be aggregated under a single budget heading. An annual white paper was also to be presented covering developments in areas such as Sami languages, culture and society; describing the services provided to the Sami; and outlining the Government's goals in respect of the Sami population. It was hoped that the new budget scheme and white papers would strengthen the autonomy of the Sami parliament as an elected representative body and contribute to greater dialogue and understanding.

61. **Mr. Megard** (Norway) said that the Finnmark Commission was composed of five members — three lawyers and two magistrates — two of whom had been nominated by the Sami parliament and were well versed in the issues affecting the Sami population. Negotiations on the Nordic Sami Convention had ended in January 2017. The Sami Parliamentary Council, which was composed of representatives of the Sami parliaments of Norway, Sweden and Finland, had reviewed the draft text and indicated that it wished to propose amendments. All three States parties had to agree before renegotiations could begin.

62. The Government had addressed the issue of self-determination through the United Nations Declaration on the Rights of Indigenous Peoples and the ongoing dialogue surrounding the Nordic Sami Convention. The right to self-determination was provided for within the current legislation, which was in line with international standards. Self-determination was primarily exercised through the elected body of the Sami parliament, while respecting the territorial integrity of the State. In that connection, the Government considered that the legislation regulating Sami fishing rights was in full compliance with international law, including the country's obligations towards the Sami as an indigenous people. In fact, the relevant legislation had been agreed in consultation with the Sami parliament. There were no plans at the present time to launch a comprehensive review of the Reindeer Husbandry Act.

63. **Ms. Haare** (Norway) said that the Norwegian parliament had decided, in June 2017, to establish a commission on the historical assimilation policy directed at the Sami and Kven peoples. The Sami parliament was set to propose the mandate, name and composition of that commission by mid-2018.

64. Regarding consultation with indigenous peoples and the concept of free, prior and informed consent, she summarized the provisions contained in, among other instruments, the International Labour Organization (ILO) Indigenous and Tribal Peoples Convention, 1989 (No. 169), and said that article 27 of the Covenant and the Committee's interpretation of that article were critical to Sami policy in Norway. Measures that would amount to a denial of a community's right to enjoy its own culture would be incompatible with the Covenant. However, a general requirement to obtain agreement or the free, prior and informed consent of a particular community could neither be derived from article 27 of the Covenant nor from other existing international instruments. The Sami parliament, therefore, did not have the right to block projects, measures or legislation by withholding consent.

65. **Ms. Birabwa Haveland** (Norway) said that no ethnic data were gathered beyond country of birth and nationality, owing to concerns that such personal information could subsequently be used to stigmatize vulnerable groups. As a result, it was not possible to identify members of particular ethnic groups. Statistics relating to the Sami population had, however, been developed. Official statistics were published every two years in the Norwegian and North Sami languages and contained information including the size and composition of the Sami population and the use of Sami languages in kindergartens and schools. Under personal data laws, information on racial or ethnic background was considered to be sensitive data. Moreover, owing to past abuses, some minority groups opposed the collection of such data. Efforts were being made, however, to develop indicators on discrimination, including racially or ethnically motivated discrimination.

66. **Mr. Heyns** said that, based on the information provided by the delegation, he understood that, in principle at least, the Child Welfare Act was applicable to all children in Norway. Under that Act, however, the Child Welfare Service was not responsible for the care of unaccompanied asylum seekers aged between 15 and 18 years of age, who were instead cared for by another institution. He would encourage the State party to consider assigning responsibility for the welfare of all children to just one institution, in order to avoid concerns about differential treatment.

67. **Ms. Jelić** said research had shown that women with children in Norway earned less than women who did not have children, whereas for men the opposite was true. She wished to know what measures had been taken or were envisaged by the State party to ensure that having a family did not have an adverse effect on women's salaries and to foster the equal participation of parents in family life. She would also like to know what action had been taken to develop a comprehensive, fully budgeted plan to revitalize and promote the Kven language, including by promoting the language in schools, providing appropriate teacher training and fostering use of the language in the media.

68. **Ms. Kran** said that she was concerned at reports that, in some cases, the exclusion of prisoners from the rest of the prison community was dictated by building conditions or staff shortages. She wished to know whether there were any written criteria to guide decisions on prisoner exclusions and how full and partial exclusion were defined. In a similar vein, she wondered whether there was any mechanism to record cases of prisoners being locked in de facto isolation for long periods without any formal exclusion decision having been taken and what action was being taken to prevent the use of isolation in those situations. Lastly, she noted the proposed changes to the legal aid system and wondered whether there was a timeline for their adoption.

69. **Mr. Shany**, noting the information provided regarding the amendments to the Immigration Act, which allowed for the detention of asylum seekers through an accelerated procedure, said he was concerned that persons were being detained on the basis of their country of origin. He wished to know whether the State party had considered the Committee's general comment No. 35 on article 9 of the Covenant (liberty and security of person), which strongly advocated for an individualized approach to the deprivation of liberty. He also wondered whether the views of the Office of the United Nations High Commissioner for Refugees, which had been critical of certain aspects of the accelerated procedure, including the use of automatic detention, had been taken into account before the amendments to the Act were adopted.

70. **Mr. Rotevatn** (Norway) said that no definitive answer could yet be given regarding a time frame for the introduction of the changes in legal aid since the proposals were still under consideration. It was hoped, however, that they would be adopted in short course; in the meantime, the Government was of the view that current arrangements were in line with the Covenant.

71. In 2018, a specific plan had been created by the Ministry of Local Government and Modernization, with the participation of representatives of the Kven community, for the purpose of revitalizing the Kven language. Among other initiatives, the plan contained various measures to strengthen use of the language in kindergartens and schools, promote the language in higher education and support civil society in setting up language camps.

72. Lastly, Norway had a strong track record on human rights and the Government strived to ensure that it met its international obligations. It was aware, however, that in certain areas improvements could be made and it was committed to achieving those objectives.

The meeting rose at 1 p.m.